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HASKINS ANNIVERSARY ESSAYS IN MEDIAEVAL HISTORY

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ANNIVERSARY ESSAYS
IN MEDIAEVAL HISTORY

BY STUDENTS OF
CHARLES HOMER HASKINS

PRESENTED ON HIS COMPLETION OF
FORTY YEARS OF TEACHING

HOUGHTON MIFFLIN COMPANY
BOSTON AND NEW YORK
MCMXXIX

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The Riverside Press
CAMBRIDGE · MASSACHUSETTS
PRINTED IN THE U.S.A.

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THIS volume is offered to Charles H. Haskins by his students, past and present, in witness of their affection and gratitude. As scholar and administrator, his achievement is widely known; only his students can appreciate in what measure he has given himself in his teaching, and what continuous influence in their lives has been exerted by his friendship and counsel.

The list of contributors could not include all who desired to take part in this tribute to Professor Haskins; it was necessary to limit the opportunity to those who have written or are now writing their theses for the doctorate under his direction. But in its intention, at least, the volume is representative of the much greater number who rightly consider him their master.

Professor L. J. Paetow of the University of California did not live to see the completion of plans which he helped to initiate and which owe much to his advice.

The editor is deeply indebted to the colleagues of Professor Haskins in the Department of History of Harvard University, and to Professor E. K. Rand of the Department of Classical Languages, for their encouragement and active assistance in the preparation of this book. Especial thanks are also due Mr. G. W. Robinson of Cambridge, who compiled the bibliography and index and gave valuable aid in many other ways. Finally, the editor appreciates the friendly interest in the volume and its purpose shown by the publishers.

Publication was made possible by the generous support of a number of men and women desirous of furthering mediaeval studies by doing honor to a great mediaevalist.

C. H. TAYLOR

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LIST OF ABBREVIATIONS

A.H.R...... *American Historical Review.* New York, 1895– .

B.E.C...... *Bibliothèque de l'École des Chartes.* Paris, 1839– .

B.N..... Bibliothèque Nationale, Paris.

Cal. Chancery Warrants..... Great Britain. Public Record Office. *Calendar of Chancery Warrants preserved in the Public Record Office.* London, 1927.

Cal. Close Rolls.. Great Britain. Public Record Office. *Calendar of the Close Rolls preserved in the Public Record Office.* London, 1892–1908.

Cal. Pap. Reg.... *Calendar of Entries in the Papal Registers relating to Great Britain and Ireland, Papal Letters,* ed. W. H. Bliss, et al. London, 1893–1921.

Cal. Pat. Rolls... Great Britain. Public Record Office. *Calendar of the Patent Rolls preserved in the Public Record Office.* London, 1893–1913.

E.H.R...... *English Historical Review.* London, 1886– .

H.F...... *Recueil des historiens des Gaules et de la France.* Paris, 1738– .

M.A.N...... *Mémoires de la Société des Antiquaires de Normandie.* Caen, 1824– .

M.G.H...... *Monumenta Germaniae Historica.* Hanover, etc., 1826– .

Migne..... *Patrologiae cursus completus,* accurante J. P. Migne. Series prima, secunda. [*Patrologia Latina.*] Paris, 1844–64.

Parl. Writs..... *Parliamentary Writs and Writs of Military Summons,* ed. F. Palgrave. London, 1827–34.

P.R.O..... Public Record Office, London.

Prynne, *Records*.. William Prynne. *An Exact Chronological Vindication of our King's Supreme Jurisdiction over All Religious Affairs.* London, 1665–68.

Where other abbreviated forms are used, the work is cited in full on the occasion of its first appearance in any article.

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Compiled by G. W. ROBINSON, formerly Secretary of the Graduate School of Arts and Sciences, Harvard University.

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HASKINS ANNIVERSARY ESSAYS IN MEDIAEVAL HISTORY

LIBRARIES IN THE TWELFTH CENTURY: THEIR CATALOGUES AND CONTENTS

In a period of such rapid intellectual advance as the renaissance of the twelfth century it would be of interest to know what books were available to students and which of those available had the greatest popularity and widest diffusion. A good deal may be learned about the processes and range of the mediaeval mind by an examination of the catalogues of the mediaeval libraries. A distinguished student of the mediaeval libraries has said that the investigation of their catalogues bears a close relation to the history of literature; the latter tells us what was written, the catalogues inform us as to what was read.[1]

Most of the known catalogues from the twelfth century, numbering more than a hundred, have now been printed. A list of the known catalogues up to the year 1500 was compiled by Gottlieb in his register, *Ueber mittelalterliche Bibliotheken* (Leipzig, 1890). Several collections of catalogues have been published, notably that of Becker, in which 136 lists of the twelfth century and earlier are reprinted.[2] A number of catalogues of French libraries are in Delisle's *Cabinet des Manuscrits de la Bibliothèque Nationale*.[3] Collections of the mediaeval catalogues of the German and Austrian libraries are now in course of publication under the auspices of the academies of Vienna, Berlin, Göttingen, Leipzig, and Munich, those of Austria having been under the editorship of the late Theodor Gottlieb, and those of the German libraries under Paul Lehmann.[4]

Even the formal inventories, however, are often unsatisfactory and have important limitations when used as sources for the numbers and contents of the libraries. Indeed, a number of

[1] R. Beer, *Handschriftenschätze Spaniens* (Vienna, 1894), p. 6.

[2] G. Becker, *Catalogi Bibliothecarum Antiqui* (Bonn, 1885).

[3] Paris, 1868–81.

[4] *Mittelalterliche Bibliothekskataloge Deutschlands und der Schweiz* (Munich 1918–), vols. i–ii.

Mittelalterliche Bibliothekskataloge Österreichs, i, *Niederösterreich* (Vienna, 1915).

libraries of the highest importance, such as those of Tours or St. Albans, have left no catalogues or their catalogues have been lost. Nor have we a catalogue of the papal library before 1295.

Often these catalogues are mere check-lists or inventories of the library's possessions, entered upon the fly-leaves of manuscripts or on other spaces empty and available. Account was usually taken only of the number of manuscripts, rather than of the works contained, and volumes were regularly listed by the name of the first work contained; in cases where several works are found in one manuscript those after the first were allowed to go uncatalogued.[5] The volumes are found cited by brief titles, which are sometimes indefinite, as *liber Virgilii*, or *diversorum auctorum liber unus*.

Also, many of these lists have come to us with insufficient indications of provenance and can be identified only as falling within the lifetime of an abbot or bishop, or, according to palaeography, within a period of fifty or a hundred years.

Though the catalogues are thus often inadequate and indefinite, and though their testimony regarding the popularity of individual authors may sometimes be misleading unless taken in connection with the history of the manuscript tradition of their works, yet a perusal of the catalogues can be made to yield much of interest respecting the libraries, the authors therein, and their interest to the twelfth century. The catalogues show that a steady growth both in the number of libraries and in the size of many of the individual collections was taking place during our period. Of the catalogues assembled by Becker, 24 date from the ninth century, 17 from the tenth, 30 from the eleventh, and 62 from the twelfth.

Judged by the present-day standards the book collections of the twelfth century were not large. Few of them could approach the size of that of Reichenau, which numbered 415 volumes in the ninth century, or that of Lorsch with 590, and Bobbio with 666 in the tenth century. Even in the twelfth century such libraries as those of Corbie, containing 342 vol-

[5] A recent writer suggests that to arrive at the actual number of works in the library one must multiply the number found in the catalogue by about four. D. H. S. Cranage, *The Home of the Monk* (Cambridge, 1926), p. 5.

umes, and of Durham with 546, were rare. Cluny, rich in everything, had over 500 books. In the case of these larger collections something must be deducted to allow for duplicates, of which the catalogues of the greater libraries show a considerable number. Thus Cluny possessed nearly a dozen copies of Boethius' *De consolatione philosophiae.*

These figures, taken in connection with the spread of the church to newer lands, show a steady growth in the collection and copying of books. This addition and multiplication of manuscripts allowed the formation of new libraries. Often the mother cloister would furnish a new foundation with a supply of books. Thus the Cistercian cloister of Altzelle, in Saxony, a daughter of Pforta, was furnished on its foundation, about 1170, with a collection of books, which according to the old catalogue, now partially illegible, included the Bible and a number of ecclesiastical writers and commentators, Hugh of Saint-Victor and Gilbert de la Porrée among the most recent.[6]

Another Cistercian cloister, Marienfeld, a daughter of Morimond, founded in 1185, possessed at the time of its founding, or acquired within a short time thereafter, a library of 75 volumes, among them numerous books of the Bible and commentaries thereon, the Fathers, Seneca, Boethius, the grammarians, and a book on the medical art.[7]

Numerous records of donations inform us of the growth of many individual collections. Thus it was the custom of Bishop William of Troja to offer a book to the church each year on the anniversary of his elevation. During the years of his service (1108–1137) these gifts included volumes of the Bible, John Chrysostom, Augustine, Jerome, Prosper, Gregory, Remigius, and Rabanus Maurus.[8]

Records of two donations of importance, made to the cathedral library of Chartres in the course of the twelfth century, have been preserved. About 1150 Thierry of Chartres, chan-

[6] L. Schmidt, "Beiträge zur Geschichte der wissenschaftlichen Studien in sächsischen Klostern," *Neues Archiv für sächsische Geschichte,* xviii, 201.

[7] H. Degering in *Beiträge zum Bibliotheks- und Buchwesen Paul Schwenke gewidmet* (Berlin, 1913), p. 53, has reprinted this catalogue with facsimiles and has established its date as 1185 or shortly thereafter.

[8] *Zentralblatt für Bibliothekswesen,* v, 497.

cellor of the cathedral, died and bequeathed to the library a collection of 50 volumes, including the *Institutes*, *Novels*, and *Digests*, his own *Heptateuchon*, and 45 other works. The *Heptateuchon*, in two volumes (nos. 497–498 of the library of Chartres), was an encyclopædia of the seven arts and contained the most important works in each branch, either entire or in important extracts, thus affording an idea of the range of studies pursued in the schools of Chartres in the time of Thierry, and of the books available there. Included were the works of Donatus and Priscian on grammar, Cicero on rhetoric, Porphyry, the *Categories*, *De interpretatione*, *Prior Analytics*, *Topica*, and *Elenchi* of Aristotle, extracts from Martianus Capella on arithmetic, Boethius on music, Gerbert, Euclid, and the Pseudo-Boethius on geometry, and Hyginus on astronomy.[9]

John of Salisbury also bequeathed his personal library to the cathedral of Chartres at his death in 1180. The books included a Bible, Jerome, Augustine, Origen, Lactantius, Leo, Isidore, among the classical authors Cicero's *De officiis*, and *De oratore*, Seneca, Eutropius, and Vegetius, and from the mediaeval period Rabanus, Lanfranc, Hugh of Saint-Victor, Sigebert, and John's own work, the *Policraticus*.[10]

The spread of the Roman order and of the learning of England and the continent toward the north is attested in a gift of a collection of books made by Robert, bishop of St. Andrews (1127–1152), to the prior and canons of St. Andrews. The donation included volumes of the Bible, service books, Origen, Prosper, and Bernard, and the canonical collection attributed to Egbert of York, under the title *Exceptiones*.[11]

In only a few cases do we possess two or more catalogues of definite date, describing the same library at different periods. Where these exist comparisons of considerable interest may be made. Thus the cathedral of Cremona possessed a noteworthy

[9] *Cartulaire de Notre-Dame de Chartres*, ed. E. Lépinois (Chartres, 1862–65), iii, 206; *Catalogue général*, xi, 211; A. Clerval, *Les écoles de Chartres au moyen-âge* (Mémoires de la Société Archéologique d'Eure-et-Loir, xi), p. 172.

[10] *Cartulaire*, iii, 201. Migne, *Patrologia Latina*, cic, coll. xi–xii.

[11] Haddan and Stubbs, *Councils and Ecclesiastical Documents* (Oxford, 1873), ii, 1, p. 227. Also, *Statutes of the Scottish Church*, ed. D. Patrick (Edinburgh, 1907, Publications of the Scottish Historical Society, vol. liv), p. xxvi.

library as early as 984, when Bishop Odelricus, on his accession to the see, caused an inventory to be made. Besides ecclesiastical works there were present volumes of Virgil, Porphyry, Boethius, Priscian, and Donatus.[12] Although not exceptional in size or contents, the inventory is of interest because it permits a comparison with a later inventory of the Cremona cathedral library, taken in 1201.[13] This latter inventory repeats the mention of a number of manuscripts noted in the first, several being certainly identifiable. On the other hand, there had been a little growth in the interval between the making of the two lists. Of the works which had appeared in the meantime, those of Manegold on the Epistles, Gilbert de la Porrée on the psalter, and Bernard appear on the second inventory.

A somewhat similar comparison is possible in the case of the cathedral library of Novara, where the first inventory, made in 1175, lists sixty items.[14] The library of Novara shows a distinctly legal bent. Among its possessions were volumes of the decretals of the popes and capitularies of councils, the *Code* of Justinian, the *Novels*, a book of canons, and Cresconius' *De concordantia canonum*. Two other inventories, drawn up in 1212, show that in the interval the library had grown to 73 volumes.[15] Several of the items of the previous inventory are recognizable, but nothing of what had been written in the meantime appears in the later inventories. In the first of the inventories of 1212 it is noted that the *Moralia* of Gregory and the Proverbs of Solomon are out on loan, but in the second list, made on the occasion of a new treasurer taking office, they appear again in the library.

The Norman monastery of Fécamp has left two catalogues of its library which may be compared. The first, drawn up in the early part of the eleventh century, lists 58 volumes, all biblical, saints' lives, or works of the Fathers, the latest authors being Bede and Rabanus Maurus.[16] A catalogue of Fécamp in the twelfth century indicates considerable growth, enumerating

[12] *Historiae patriae monumenta* (Turin, 1873), xiii, 1442.

[13] *Archivio Storico Lombardo*, iii, 527; vii, 260.

[14] *Revue des bibliothèques*, xxi, 106.

[15] *Historiae patriae monumenta, Chartarum*, i, 1192; ii, 1275.

[16] Ch. de Beaurepaire in *B.E.C.*, 4th series, v, 158, note 1.

about 150 volumes. There are now a few works of classical authors present; the *Æneid* of Virgil, the *Somnium Scipionis*, and Aristotle's *Topica*. Also a number of recent or contemporary theologians and canonists have been added, among them Bernard, Ivo of Chartres, the *Noah's Ark* of Hugh of Saint-Victor, Peter Lombard's *Sententiae*, Peter Comestor's *Historia*, Burchardus, a collection of lives of saints, and a volume on the erection of the church of Fécamp.[17]

There were great differences in the interest and activity displayed in the acquisition of new books by the various libraries. For many religious houses the twelfth century was a period of stagnation or decline. The libraries of several such houses list in their catalogues the works of no author later than the Carolingian period. At Sant' Angelo at Capua the *Diadema monachorum* of Smaragdus is the most recent of 140 volumes noted.[18] The lists of the books of Moissac contain nothing later than Rabanus Maurus.[19] The latest writings in the library of Anchin were those of Alcuin, Remigius, and Abbo.[20] Of the 94 volumes of the library of Schaffhausen in the time of the abbot Siegfred (1083–1096), the most recent was the *Etymologies* of Isidore of Seville.[21] In several cases, such as at Michelsberg at Bamberg in the first half of the twelfth century, the writings of Anselm were the only works of a date more recent than the Carolingian period.[22] At Muri the *Occupationes* of Hugh of Saint-Victor was the only work later than the *Diadema monachorum*.[23] Even the twelfth-century catalogue of Cluny does not reveal as full a selection from the works of contemporary writers as do inventories of other and smaller collections.

In other cases, however, the collectors of books were more enterprising. In the libraries of Saint-Victor at Marseilles,

[17] *Orderici Vitalis historia ecclesiastica*, ed. A. LePrévost (Paris, 1840, Société de l'histoire de France), introd. by L. Delisle, p. xii; *Catalogue général des manuscrits des bibliothèques publiques. Départements*, ed. H. Omont (Paris, 1886), i, p. xxiii.

[18] Becker, p. 246. [19] Delisle, *Cabinet des manuscrits*, ii, 441.

[20] *Catalogue général des manuscrits des bibliothèques des départements* (Paris, 1878), vi, 765.

[21] Becker, p. 154.

[22] *Ibid.*, p. 192. H. Bresslau, "Bamberger Studien," *Neues Archiv*, xxi, 143–165.

[23] Becker, p. 250.

Saint-Martial at Limoges, Canterbury, and St. Peter's at Salzburg were to be found very full selections from the writings of the most important contemporary authors, and in the catalogues of the most of the libraries appear at least a few of the writings of the day, in the early part of the twelfth century most commonly St. Anselm, at a later period Hugh of Saint-Victor and St. Bernard.

The matter of the acquisition of new books brings to mind the question of how rapidly books travelled. This the library catalogues cannot satisfactorily answer, both because only about a quarter of the catalogues may be dated with a degree of definiteness sufficient to make them useful in tracing the progress of individual works, and also because descriptions of individual works in the catalogues are often inadequate and do not allow of certain identification. In the cases of the more popular authors the progress of their works is traceable. Thus the works of St. Bernard had spread widely before the death of the saint. By 1151 several of the sermons were in the Lippoldsberg library and Bernard's writings had reached St. Andrews in Scotland before 1152. The *De contemptu mundi* and the *De spiritu et anima* are cited in the catalogue of Prüfening of 1158. The *Littera apologetica* and commentary on the Song of Songs were included in the gift of Philip, bishop of Bayeux, to the library of Bec in 1164. The *Distinctiones* and the sermon *De admirandis beneficiis* were in the library of Nonantula in 1166. A volume of the sermons is listed at Whitby about 1180, and before the close of the twelfth century works of Bernard are found at Peterborough, Salzburg, Wessobrunn, Naumburg, Corbie, Cluny, and many other centres as widely separated. Though thus widely spread, especially in the Cistercian houses, the diffusion of the works of Bernard was by no means universal. No work of his is found in the library of Nîmes in 1219, nor is one listed in the thirteenth-century catalogue of the Cistercian abbey of Flaxley.

Works which supplied definite and immediate wants, such as manuals of canon and civil law, or the new treatments of grammar, logic, and rhetoric, were sure to spread rapidly. Other works, such as history or poetry, might remain uncopied, or be

forced to await a demand, at a time when such a demand could not be artificially stimulated.

Aside from those libraries which were confined exclusively to theological or liturgical works (such as Nîmes, Maillezais, Poblet, and Prüfening), there are few cases in which individuality or a special interest in a certain type of literature is to be noted. Most libraries contained works on law, or medicine, or the liberal arts, but it was unusual for a special collection to be made in any one field. As exceptions may be noted Saint-Martial's at Limoges, which at the opening of the thirteenth century was completely equipped with texts of the civil and canon law,[24] and Hildesheim, where Bishop Bruno had collected 26 volumes of medical works, including volumes of Galen, Alexander Saracenus, Isaac the Jew, and Constantine the African.[25] There were also a large number of medical works in the libraries of Saint-Amand and Durham. The libraries of the north of France, in particular Saint-Amand, Arras, and Anchin, were better supplied with works on dialectic than most of their contemporaries.

The tests for the inclusion of works in the cloister and cathedral libraries were necessity, utility, and interest, while large numbers were added through the accidents of gift or bequest. Nor was the suspicion of heresy or false doctrine sufficient to cause the works of the suspected writer to disappear from circulation. Thus the works of Pelagius, though not listed in a twelfth-century catalogue, were available at St. Gall, Lorsch, and Saint-Riquier. The works of Claudius of Turin were present at Bobbio, Monte Cassino, Arras, Saint-Bertin, and perhaps at Durham,[26] also at Murbach, Marseilles, Massay, Limoges, and Cluny. The sermons of Agobard of Lyons are also catalogued at Cluny. The work of John the Scot *Peri physeon merismou*, though condemned at Vercelli in 1050, and at Sens in 1225, had found its way into the libraries of Michelsberg at Bamberg, St. Gildas, Bec, Cluny, and Saint-Bertin

[24] Duples Agier, *Chroniques de Saint-Martial de Limoges* (Paris, 1874, Société de l'histoire de France), pp. 330–339.

[25] K. Sudhoff in *Archiv für die Geschichte der Medizin*, ix, 348.

[26] Becker, p. 242.

during the twelfth century or before. Other controversial works were less fortunate. Though manuscripts of Ratherius of Liège are fairly numerous, they appear in the catalogues only at Lobbes and at Egmond. Though the work of Lanfranc against Berengar of Tours is already listed in the eleventh-century catalogue of Wessobrunn and that of Pomposa (1093), Berengar's writings appear in none of the mediaeval catalogues.

The spread of the works of Abelard in the monastery libraries was possible in spite of his questionable orthodoxy. The *Sententiae* and the *Scito te ipsum* are listed in the Prüfening catalogue by 1158, the *Excerpta auctoritatum* appear in the catalogue of Engelberg of a date between 1142 and 1178, and the *Sententiae* appear also in the twelfth-century catalogue of the monastery of St. Peter's at Salzburg. The gift of Pope Celestine II to the church of Città di Castello in 1143 included copies of the *Sic et non* and the *Theologia cum retractione*.[27]

The works of Gilbert de la Porrée also spread widely in spite of doubts cast upon his doctrine. The work considered most dangerous, the commentary on Boethius' volume on the Trinity, was listed among the school books of St. Peter's at Salzburg, and others of Gilbert's writings were to be found in the list of the books given to Bec by Philip, bishop of Bayeux, also in the catalogues of Durham, Corbie, the *Biblionomia* of Richard of Fournival, the inventory of the cathedral of Cremona, and possibly that of Novara.[28]

The greater part of the content of the monastery and cathedral libraries was composed of ecclesiastical books; volumes of the Bible, scriptural commentaries, works of the Fathers, and books for divine service. In a number of cases the library was entirely theological and liturgical, and in most libraries the non-ecclesiastical content did not reach one third of the total.

The most common book was the Bible. It appears in almost every catalogue and in those cases where it was not listed it was probably considered as part of the treasure of the church. As a large book the Bible was often copied in several parts, the

[27] This donation is assigned to Città di Castello by Wilmart in *Revue Bénédictine*, xxxv, 98.

[28] J. de Ghellinck, *Le mouvement théologique du XII^e siècle* (Paris, 1914), p. 109, speaks of the reading of the Novara inventory of 1175.

psalter, gospels, and epistles being preserved in separate volumes for the use of the service. Also other groups of books, such as the Pentateuch, the books of Kings, and the prophets were copied separately. The references in the catalogues to the books copied separately give some idea of those most commonly read. Those appearing in the catalogues more often than others were Genesis, Kings, Job, Psalms, the extremely popular Song of Songs, and of the Old Testament Apocrypha, Tobit, Judith, and Maccabees. The Apocalypse and collections of the epistles of Paul also appear commonly.

Adopting the usual order of the catalogues, the Bible is followed by the works of the Fathers.[29] The Greek Fathers did not have an important place in the libraries of the West, in the case of some authors but a single mention being found. The *Shepherd of Hermas* is listed only in the catalogue of Bec, and Ignatius only at Corbie. The works of Origen, however, were widespread, being found at St. Gall, Bobbio, Hirschau, Glastonbury, Corbie, and elsewhere.

The works of Gregory Nazianzen were also widely diffused, being catalogued at Reichenau, St. Gall, Lorsch, Bamberg, Corbie, Stavelot, Lobbes, Saint-Amand, Maillezais, and Trier. The sermons of Gregory of Nyssa were in the library at Bec and at Lobbes.

The most read of the Greek Fathers was John Chrysostom. Athanasius' works are listed in the catalogues of Reichenau, Lorsch, Bobbio, and Trier. Ephraim's works are found in collections as far apart as Anghiari and Burton, also at Corbie, Lyre, and Saint-Amand.

The *Celestial Hierarchy* of the Pseudo-Dionysius the Areopagite is listed in the catalogues of Bec, Chartres, and Wessobrunn, and the translation of John the Scot is specified at Cluny and Rolduc. Nonantula had a manuscript of the *Epistolae* of Dionysius.

The Antenicene Fathers of the West were rather poorly represented in the libraries. Tertullian is noted at Lorsch,

[29] The diffusion of the works of the Fathers and later theological writings is discussed by de Ghellinck, in his observations "En marge des catalogues de bibliothèques médiévales," *Miscellanea Francesco Ehrle* (Rome, 1924), v, 331–363.

and Bobbio, at Corbie in the eleventh century, at Hirschau, Altzelle, and Saint-Amand in the twelfth, but his writings were far from common. The *Apologeticum* is the work most often listed. Corbie possessed a sheaf of the sermons and tracts, including the *De spectaculis*, *De monogamia*, *De pudicitia*, *De trinitate*, and *De resurrectione carnis*.

References to the works of Cyprian are more common, thirty or more being found in the catalogues before 1250. The *Epistolae* appear as the most widespread work.

Nothing demonstrates the influence of Augustine on the Middle Ages more clearly than the long lists of manuscripts of his writings in the mediaeval catalogues. Though his entire works were not possessed in any one library, almost every house had a considerable selection.[30] The most popular single work was the *De civitate Dei*, though as a rather lengthy book, it was sometimes acquired only in part (2 books, 10 books, 15 books, etc.). Of the exegetical works the *Enarrationes in Psalmos* and the *Tractatus in epistolas Johannis* are cited most often. Other works of frequent occurrence in the catalogues are the *Contra Faustum Manichaeum*, *De doctrina Christiana*, and the *Confessiones*, which does not appear as often as might be expected. Though the popularity of the works of Augustine far exceeded that of the writings of others, no individual volume of his attained the circulation of, for example, the *Moralia* of Gregory. The regard which the mediaeval cataloguers held for Augustine is shown by the fact that he is generally accorded first place in their lists after the Bible. The numbers of his works in the libraries sometimes reached astonishing proportions. The library of Lorsch in the tenth century had 98 volumes of Augustine out of a total of 590, Bec in the twelfth century had 36 volumes of Augustine, and the monastery of St. Maurice at Naumburg at the same period had 98 manuscripts of Augustine out of 184 in the library.[31]

[30] Oberaltaich has been noted as having no work of Augustine in its twelfth-century catalogue. Such cases could not have been numerous. The library of Whitby (Becker, p. 226) is apparently another such case. The catalogue dates from about 1180 and the completeness of the collection along other lines makes the absence of anything of Augustine at this important centre appear strange or improbable.

[31] Becker, p. 269.

The works of the three other greater Fathers of the Latin church were almost as widespread. The writings of Ambrose appearing most often in the catalogues are the *Exameron*, the commentary on the Pauline epistles, and the *De officiis ministrorum*. Jerome's numerous biblical commentaries were everywhere read and his epistles were especially popular in the libraries of the monastic communities. There are also numerous citations of his translation of the universal chronicle of Eusebius. The popular tone of the writings of Gregory caused them to spread through the libraries everywhere. The *Homelie super Ezechielem*, *Homelie super evangelium*, the *Pastorale*, and the *Dialogi* were all copied extensively. Gregory's *Registrum* appears in the catalogues of more than thirty libraries before 1250. If we are to accept the testimony of the library catalogues, the *Moralia in Iob* was probably the most widely read mediaeval book, exclusive of the Bible. When the inventory of the cathedral library of Novara was made in 1212, the *Moralia* was out on loan. The same was true when the inventory of the books of Archbishop Bernard of Compostella was made in 1226.[32]

Others of the Latin Fathers are cited less frequently. Hilary's name appears twenty or more times in the catalogues. Works of Leo the Great were at Reichenau, Saint-Riquier, Lorsch, Bec, St. Emmeram's, Lippoldsberg, Naumburg, and Chartres, both the *Homilie* and the *Epistolae* being mentioned. The writings of Cassian, who addressed himself to the monks and whose *Collationes* were widely adopted for daily reading, are mentioned in a great number of the catalogues, even of houses where the ascetic temper was least pronounced.

Most twelfth-century libraries contained something of the ancient classics, though their amount and proportion differed widely in the individual libraries. Appearances of Greek books in the Western libraries are rare. The monks of the Greek monasteries of South Italy seem to have lived to themselves and such works of the Greek classical authors as they possessed had no influence beyond the immediate region. Though the library of St. Nicholas at Casole was famed throughout the Terra

[32] H. Omont in *B.E.C.*, liv, 327.

d'Otranto and contained a manuscript of Aristophanes, it was in contact with the East rather than the West and this knowledge of Greek drama did not spread.[33]

Plato was known indirectly, in the main. Of his works only the first part of the *Timaeus* in the translation of Chalcidius was available at the opening of the twelfth century. Notices of this in the library catalogues are fairly numerous. It was present at St. Gall, Lorsch, Hamersleven, Bamberg, Rastede, Tegernsee, Saint-Bertin, Bec, Anchin, Saint-Amand, Corbie, Engelberg, Salzburg, Whitby, Durham, Reading, Canterbury, Halberstadt, and elsewhere. Notices of the translation of the *Meno* and *Phaedo* made by Aristippus of Catania about 1156 do not occur before the date of the *Biblionomia* of Richard of Fournival, which describes the *Phaedo*.[34] The twelfth-century catalogue of Anchin cites *Plato de cosmopio*, possibly a description of the *Timaeus*.

Aristotle was more popular in the Middle Ages and his works chanced to be better preserved. Of the logical works available at the opening of the twelfth century the *Categories* were spread most widely, references to this treatise being found in the catalogues of Bobbio, Montier-en-Der, St. Emmeram's, Hamersleven, Pfäffers, Reichenau, Wessobrunn, Saint-Amand, Anchin, Arras, Reisbach, and with the rest of the *Organon*, at Canterbury and Rochester. The *De interpretatione* was listed at St. Emmeram's, Pfäffers, Salzburg, Anchin, Arras, and Fleury. The other works of the *Organon*, which made their appearance in the second quarter of the twelfth century, though adopted by the students of logic, made their way into the library invento-

[33] The library of Casole is described by C. Diehl in *Mélanges d'archéologie et d'histoire*, vi, 173, and K. Lake in *Journal of Theological Studies*, v, 33.

[34] The *Biblionomia*, Richard of Fournival's model catalogue of a model library is printed by Delisle, *Cabinet des manuscrits*, ii, 518–535. Richard was chancellor of the church of Amiens, his life falling within the period 1201–1260. His work purports to be, as explained in allegorical fashion in the introduction, a plan of education for the youth of Amiens and especially a plan for the formation of a library. He lists 162 books, with remarkably full descriptions, and a scheme of classification to aid the librarian in finding them readily. The studies of Delisle (*Cabinet*, iii, 387) and of Aleksander Birkenmajer, *Bibljoteka Ryszarda de Fournival i jej pozniejsze losy* [the library of Richard of Fournival and its fate] (Cracow, 1922), have identified a number of items in the *Biblionomia* with manuscripts described in the mediaeval catalogues of the Sorbonne library and bequeathed to the Sorbonne by the theologian Gerard d'Abbeville.

ries slowly. The *Prior* and *Posterior Analytics* are found in the catalogues of Engelberg by 1175 (this monastery possessed a very complete collection of logical works), at Glastonbury, and in the *Biblionomia*. The *Elenchi* and *Topica* appear in the catalogue of the library of Reading abbey, and the *Elenchi* in the catalogue of Benedictbeuern in 1250, and also in the *Biblionomia*. In the twelfth-century catalogue of the library of the monastery of St. Peter's at Salzburg appears the item: *Metaphysica et topica Aristotelis*.[35] In a list of text books probably in use at Paris near the close of the twelfth century mention is made of the logical treatises of the *Organon*, the *Metaphysics*, the *De generatione et corruptione*, and the *De anima*.[36] The inventory of the cathedral library of Passau made in 1254 includes the treatises of the *Organon* and the *Physics*.[37] In general, the logical works of Aristotle and Porphyry, accompanied by the commentaries of Boethius, appeared in numbers in the monastery libraries, but the scientific and metaphysical works, with the commentary of Averroës, did not make their way so easily, for notices of them in the catalogues are slow to appear and not numerous.

Of Greek writings on medicine the works of Hippocrates appear catalogued at Sant' Angelo at Capua, Saint-Amand, Durham, in the medical library of Bishop Bruno of Hildesheim, and elsewhere. Writings of Galen are mentioned in the catalogues of Reichenau, Saint-Amand, Durham, Salzburg, Hildesheim, and other collections. The work of Dioscorides on herbs appears in the catalogues of Saint-Amand, Durham, and Peterborough.

Philo Judaeus is mentioned in the catalogues of Saint-Riquier and Lyre, and in the course of the twelfth century a letter to Abbot Conrad of Tegernsee requested the loan of a manuscript of his works.

Josephus' *History of the Jews* was regarded in the Middle Ages as a sort of auxiliary to the study of the Bible, and manuscripts

[35] Becker, p. 234.

[36] C. H. Haskins, *Studies in the History of Mediaeval Science*, 2nd ed. (Cambridge, 1927), p. 373.

[37] *Monumenta Boica*, xxviii, 2, p. 484.

of it were diffused very widely, the work being recorded more then forty times in the catalogues.

The mention of two books of Lucian in the twelfth-century catalogue of Saint-Bertin is obviously an error for Lucan.[38]

In all these works of Greek authors available in the twelfth century in Latin translations, there was nothing, it may be observed here, which could give a correct conception of Greek life, which, along with the Greek language, remained largely an unknown field to the twelfth century.

Making use of the evidence furnished by the library catalogues we might trace similarly the diffusion of the works of the classical authors of Rome, the Latin transmitters of the ancient learning, and the writings of the early Middle Ages, having in mind the fact that to obtain a true picture the testimony of the catalogues must be supplemented by the history of the manuscript tradition of these works.[39] Our remaining examples, however, will be devoted to the appearance of recent or contemporary writings in the catalogues of the period 1050–1250.

The reform movement in the church is reflected in the appearance of the works of Peter Damiani. They reached Freising before the end of the twelfth century and the *Liber gratissimus* is noted in the catalogue of Pomposa in 1093. In the course of the twelfth century they appeared at Hirschau, Michelsberg, Passau, Salzburg, Weihenstephan, Cluny, Tournai, and Lambach.

The writings of Anselm were spread widely even during his lifetime, especially the *Cur Deus homo*, cited very often either with or without the name of the author. Mention of the works of Anselm is made in the twelfth-century catalogues of Che-

[38] Becker, p. 183.

[39] Statistics relating to the diffusion of the works of the individual Roman authors in the mediaeval libraries have been assembled by M. Manitius in "Beiträge zur Geschichte der röm. Prosaiker im Mittelalter," and "Beiträge zur Geschichte der röm. Dichter im Mittelalter," in *Philologus*, xlvii–lvi (1888–97), and Supplement vii (1899), and in "Philologisches aus alten Bibliothekskatalogen," in *Rheinisches Museum*, xlvii (1892), Ergänzungsheft, pp. 1–152. Citations of classical authors in English library catalogues are listed by E. A. Savage, *Old English Libraries* (London, 1911), p. 258. Citations of mediaeval writers in the catalogues are noted by Manitius in "Geschichtliches aus mittelalterlichen Bibliothekskatalogen," in *Neues Archiv*, xxxii, 649; xxxvi, 755, xxxxi, 714; xxxxviii, 148; also in his *Geschichte der lateinischen Literatur des Mittelalters* (Munich, 1911, 1923).

minon, Fécamp, Vaux-de-Cernay, Lincoln, Glastonbury, Radeford, Göttweig, and Novara, and in the thirteenth-century lists of the books of Reading, Marchiennes, Saint-Martin-des-Champs, and Nîmes, among a number of others.

Honorius of Autun is listed more often in the inventories of the German libraries than in those of France. The *Imago mundi* appears at Whitby, the *Elucidarium* at Bec and Corbie. The *Speculum ecclesiae* was listed at Salzburg, Jumièges, Göttweig, Benedictbeuern, and Heilsbronn, and a list of books loaned by Tegernsee also mentions it.

The *Sententiae* of Peter Lombard, which served as a handbook of doctrine, are listed in many of the catalogues. In England they appear at Lincoln (before 1182), Peterborough, Durham, Leominster, and Reading during our period, and they were spread widely through the libraries elsewhere, being noted at Dunes, Bec, Corbie, Andres, Clairvaux, and Prüfening.[40]

The *Historia scholastica* of Peter Comestor at once found a place as a companion to biblical studies, and mentions of it in the catalogues from the close of the twelfth century on are numerous in every region.

Among the other additions to the body of theological literature in the twelfth century was the *De fide orthodoxa* of John Damascenus, translated by Burgundio of Pisa about 1150. Though soon cited in the theological literature of the period, to judge from the library catalogues its early progress was slow, one of the earliest mentions of it in this connection being in a bequest of the Bishop of Chichester to the Franciscans made in 1253.[41]

Books of law quite commonly found a place in the twelfth-century libraries. The old tribal codes do not appear in great numbers. Perrecy in the eleventh century had the Salic law, and the catalogue of Chartres of the same period listed the law of the Ripuarian Franks. The Lombard law was catalogued in the twelfth century at Salzburg, Monte Cassino, and Cracow, and in the thirteenth at Val Saint-Hugon. The library of

[40] J. de Ghellinck, *Le mouvement théologique du XII^e siècle*, p. 164.

[41] De Ghellinck, *Le mouvement théologique*, p. 268; E. Edwards, *Memoirs of Libraries*, (London, 1865), i, 372

Archbishop Bernard of Compostella, inventoried in 1226, contained the Visigothic code.

The *Corpus Iuris Civilis* was beginning to appear in the catalogues. The inventory of the gift of Pope Celestine II to Città di Castello records manuscripts of the *Code* and *Digests*. The bequest of Thierry of Chartres included the *Institutes* and the *New Digest*, and the *Institutes* and *Digests* formed part of the gift of Philip of Bayeux to Bec. The inventory of Novara cathedral library made in 1175 noted the *Code* and the *Novels*. The *Digest* and *Code* were a part of the collection presented by Archbishop Ubaldo of Ravenna to the bishop of Cesena in 1215. The *Digests*, *Infortiatum*, and *Code* were in the library of Archbishop Bernard of Compostella, the *Old Digest* being out on loan at the time of the inventory. The library of Benedictbeuern had the *Code* and *Institutes*. Peterborough possessed manuscripts of the *Institutes* and of the whole of the *Corpus Iuris* in two volumes.

In the field of canon law there are numerous citations of collections of papal decretals and of canons of councils. One of the most popular of these was the *Decretum* of Burchard of Worms, compiled at the opening of the eleventh century and early cited in the list of additions made by Frederick, bishop of Geneva, to the cathedral library in 1035. This continued to be preserved in the libraries and cited in the catalogues, though perhaps superseded in actual use by the more systematic collections of Ivo and Gratian. It is noted in the 1201 inventory of the cathedral library of Cremona, though the connection of Burchard with the work seems to have been forgotten in this later period and at times the work is cited simply as *Bocardus*.

The *Epistolae* of Ivo of Chartres and his *Panormia*, or collection of canons, appear very often in the catalogues. Ivo's name occurs before the end of the eleventh century in a list of books of a certain Robert de Galone, perhaps of Saint-André-de-Rosans (Hautes Alpes).[42] His works were copied at Glastonbury under Abbot Henry in the first part of the twelfth century, and in the following period they appear in the inventories of Città di Castello, Marienfeld, Naumburg, Wessobrunn, Prü-

[42] *Zentralblatt für Bibliothekswesen*, XX, 370; *Revue Bénédictine*, XX, 183.

fening, the Cistercian abbeys of Austria, Bec, Fécamp, Saint-Martin-des-Champs, Corbie, Bruges, Brogne, and Marseilles, and in England at Durham, Whitby, Burton, Rochester, and Flaxley.

Gratian's *Concordantia Discordantium Canonum* filled an immediate want and came to be included in the libraries and cited in their catalogues at once.

History was usually represented in the libraries, though there as in other fields the catalogues indicate the mediaeval preference for summaries and compends. The tendency to condensation is shown in such a work as that cited in the catalogue of Massay: *Historia Anglorum, Trojanorum, Romanorum, Longobardorum, Gottorum in uno codice.* Mentions of the classical and early mediaeval historians were not numerous and a fact made most apparent by the examination of the citations of the works of the mediaeval historians in the library catalogues is that even the most valuable of these works were copied comparatively rarely, few had a wide circulation, and several seem never to have passed beyond the walls within which they were written. Thus the chronicle of Marianus Scotus is not catalogued except at Canterbury, and there first at the close of the thirteenth century, but Ordericus Vitalis relates that a manuscript of Marianus was shown to him at Cambrai. The chronicle of Sigebert, continuing the work of Eusebius, Jerome, and Prosper, was the most popular of the world-history chronicles and was listed at Bayeux, Bec, Saint-Amand, Tournai, Chartres, Liège, and Reading. Baudri of Dol's story of the First Crusade is noted only in the Bec catalogue. Bonizo of Sutri is not found in the catalogues before the fourteenth century, Peter of Monte Cassino not before the fifteenth. Geoffrey of Viterbo is listed only at Prüfening in the thirteenth century, Sicard of Cremona at Corbie in 1200, and Geoffrey de Breuil in the catalogues of Limoges. Otto of Freising's *Chronicon* is noted at Ebersberg in the latter part of the twelfth century and at Aldersbach at the close of the thirteenth. A number of manuscripts of the *Historia ecclesiastica* of Ordericus Vitalis have survived, but the work is listed only in the catalogue of Saint-Évroul, where the original was preserved. These facts seem to show that the

work of the historians never attained the same degree of popularity in the mediaeval libraries as did other types of literature.

Local histories were numerous and some, which possessed a general interest, might be copied. Thus the *Gesta consulum Andegavensium*, besides being in the library of Angers, was also at Chartres. The *Lives of the Abbots of Cluny*, comprising biographies of abbots Odo, Mayeul, and Odilo, was listed (either wholly or in part) in the catalogues of many of the houses of the order. Aside from the library of Cluny, the work was found at Toul, Crépy, Limoges, Angers, Tournai, and Saint-Martin-des-Champs.

Of the twelfth-century poets the works of Hildebert of Le Mans are mentioned most often. They are cited in the twelfth-century catalogues of Bec, Lyre, Corbie, and Durham, and among others, at Jumièges in 1213. The catalogue of Durham lists four copies of the *Epistolae*. Three of these are noted as being in the hands of members of the community for reading.

Alain de Lille is noted in the catalogue of Marienfeld, but notices of his works even at a later date are not numerous. The *Alexandreid* of Walter of Châtillon is mentioned by Richard of Fournival in the section of the *Biblionomia* devoted to poetry.

Of the verse of the Goliardic poets the Glastonbury catalogue of 1247 mentions the *Tractatus Guliardi* or *Apocalypse of Golias*, while in the *Biblionomia* is the item *Meonii Homeri libellus et versus Primatis Aurelianensis de eodem*. The fact that much of this material was scattered, fragmentary, or uncollected may have prevented its being listed in the catalogues in other cases where it existed in the libraries.

The works of the poets, as those of the historians, appear less frequently in the catalogues since they met less immediate needs. When works on science or the useful arts were framed in verse there was no lack of copies and corresponding citations in the catalogues, as witness the volume of Macer on herbs, of which Manitius has counted no less than 57 notices in the library catalogues.[43]

Guido, the author of the fundamental work on music, appears in the catalogues of nearly twenty libraries of our period, first

[43] M. Manitius, *Geschichte der lateinischen Literatur des Mittelalters*, ii, 547.

at Egmond, then Wessobrunn, Bezè, Lambach, Salzburg, Limoges, Cluny, Angers, and elsewhere.

The works of Gerbert are not mentioned often in the catalogues, his writings on the astrolabe and the abacus being listed at Toul, the *Epistolae* at Cluny, and the *Geometria* at Bec.

The *Epistolae* of Fulbert of Chartres were at Bec, Cluny, Angers, Rolduc, Lincoln, and Glastonbury, his sermons at Pontigny and the library of Saint-Pierre at Chartres, while an eleventh-century donation to Tegernsee cites (without reference to Fulbert) the *De divisione et coacervatione numerorum, de partibus unciae.*[44]

If the testimony of the catalogues be accepted, the spread of the works of John of Salisbury was not rapid in the period up to 1250. The *Entheticus* was at Canterbury in 1170. The *Policraticus* formed a part of his bequest to Chartres cathedral at his death in 1180 and is listed in the catalogue of Rochester in 1202. In the Glastonbury catalogue of 1247 appear the *Verses of Master John of Salisbury*, with the comment *utilis*. The *Policraticus* is also listed in the thirteenth-century catalogue of Pontigny and in that of another French library (unidentified).[45]

The *Philosophia* of William of Conches is named in the catalogue of Corbie and in the catalogue of Prüfening is the item *Willehalmus de phylosophia.*[46] On the whole it may be said that the new works in the fields of science spread slowly through the libraries.

The popular romances found their way into the libraries of the religious houses. Thus the *Historia Apollonii regis Tyri*, turned into verse in the tenth or eleventh century, was listed in the libraries of Gorze, Lobbes, Saint-Amand, Stavelot, Toul, Weihenstephan, Salzburg, Wessobrunn, and Rochester, and the earlier form at Reichenau and Saint-Wandrille. The *Historia Karoli Magni* of the Pseudo-Turpin, written in the period 1140–1150,[47] and connected with the pilgrimage to Compostella, is first noted in the catalogues in the twelfth-century list of the books of Lyre and at the opening of the thirteenth century at Limoges.

[44] Becker, p. 142. [45] Delisle, *Cabinet des manuscrits*, ii, 518. [46] Becker, p. 215.
[47] J. Bédier, *Les légendes épiques*, 2nd ed. (Paris, 1914–21), iii, 68.

Books in the vernacular are cited rather rarely in the library catalogues. Books in German are noted in the catalogues of Reichenau, Weissenburg, Pfäffers, Trier, Regensburg, and Saint-Riquier, the volumes listed being chiefly the gospels, psalter, and Song of Songs.[48] The gift of Bishop Leofric to the cathedral and monastery of Exeter in 1073 included a number of religious books and a volume of Boethius in English, probably the translation of King Alfred. The inventory of the abbey of Burton, made after 1175, listed a number of service books, a volume of Gregory and one of Apollonius of Tyre in English. In the twelfth-century catalogue of Durham a special rubric introduces a list of eight books in English, among them being three collections of homilies, two chronicles, a volume on the nativity of St. Mary, Paulinus, and a history of England, *Elfledes Boc*. Glastonbury in 1247 had the history of the capture of Antioch. The thirteenth-century inventory of the library of the Cistercian abbey of Flaxley listed a *Physicus* in English and several lives of saints in French. The book of the privileges of the cathedral of Toledo in 1239 notes four Arabic texts on geography, the *Liber Rasi* and *Liber Abiba Capazhabi* being named.[49]

An examination of the library catalogues of the twelfth century shows that libraries were fewer and less richly supplied with books in some regions than in others, as, for example, they were fewer and less extensive in the south of Italy and in Spain than in France or Germany. These differences did not extend to the character of the collection or the choice of works included, which, if we disregard the natural inclusion of a certain amount of local material, remained much the same everywhere.

Nor was there a great deal of difference in the selection of books made by the various types of houses or orders, as such. A cathedral library did not differ noticeably from a monastery library. The newer orders were not more zealous in the collection of books than were the older, though Peter the Venerable said of the Carthusians in 1124: "Silentio, lectioni, orationi, atque operi manuum, maxime in scribendis libris irrequieti

[48] Becker, p. 325.

[49] *Boletin de la real acad. de la historia*, ix, 18.

insistunt." [50] The libraries of the Cistercians were designed to assist their religious study and for this reason were largely confined to biblical and patristic texts and commentaries. Thus the Cistercian houses of Zwettl and Heiligenkreuz had libraries almost exclusively theological and liturgical, while the neighboring Benedictine monastery of Göttweig had volumes representing the fields of grammar, rhetoric, music, astronomy, and medicine, and a number of classical authors. This single-mindedness is to be noted in all the twelfth-century catalogues of the Cistercian libraries. Not until the thirteenth century were there many libraries of Cistercian houses such as that of Pontigny, which possessed volumes of Quintilian, Seneca, Valerius Maximus, Suetonius, Dares, and Apollonius of Tyre. By the thirteenth century, however, the Cistercian libraries were not to be distinguished from those of their neighbors, from the point of view of content.

The catalogues of books serve as well to reflect the changing interests of our period. The opening of the twelfth century had been marked by an increasing interest in the Latin classics, followed a little later by the growth of popularity of texts on dialectic and the newly-discovered science. The assimilation of all this material is marked, in the closing years of the twelfth century and in the succeeding period, by the composition, copying, and spread of a great number of compends and summaries, or *summae*, in nearly every field of learning, such as the *Sententiae* of Peter Lombard in theology, and the *Historia scholastica* of Peter Comestor for biblical history.

It is in registering these advances or changes in intellectual and literary tastes that the catalogues may serve as reflections of the interests of the time. But they are not an entirely complete or satisfactory register. As the spread of most books was dependent on meeting a demand or fulfilling a need, this spread could not be hurried and it took a long while for a work to become a classic. For this reason the works of many of the important twelfth-century writers seldom appear listed in the catalogues of their own day, and for the same reason the

[50] Migne, clxxxix, 945; P. Lehmann, "Bücherliebe und Bücherpflege bei den Karthäusern," *Miscellanea Francesco Ehrle* (Rome, 1924), v, 366.

catalogues are better as a register of what the twelfth century was supplied with in the way of books from an earlier period, than as a reliable gauge of the popularity and diffusion of works of contemporary authors.

Collectively, however, as reflections of the range and variety of mediaeval interests, and individually, as indications of personal tastes, the catalogues are most enlightening. The historical turn of mind is attested in the gift of Giovanni di Legnano, when he presented his library of four volumes, the encyclopaedia of Isidore, Jordanes, Gregory of Tours, and Paul the Deacon, to the church of San Giorgio at Braida.[51] The lists of the books of the individual monks appended to the library catalogue of Durham distinctly show us William de Nunnewick, the student of the lives of the saints, and Guarinus the classicist.[52] Some of the interests of the greatest classical scholar of the day are indicated in the collection of books which John of Salisbury bequeathed at his death to the cathedral library of Chartres. And, more generally, any statements respecting the popularity and diffusion of the works of Augustine in the Middle Ages could hardly be more effective than a glance at the extended lists of his writings in the catalogues of the libraries of Cluny or of Limoges.

JAMES STUART BEDDIE

[51] *Archivio Veneto*, n.s., xxvi, 170. [52] Becker, p. 244.

THE ENGLISH MANORS OF THE ABBEY OF LA TRINITÉ AT CAEN

The Abbey of La Trinité at Caen founded in 1066 by William, Duke of Normandy, and his wife Matilda, received, in addition to its endowment of Norman lands, several manors in England from William and Matilda, William Rufus, Henry I, and other less prominent donors. Of these holdings, Minchin Hampton, Pinbury in Duntisborne, Avening, all in Gloucester, Tilshead in Wiltshire, Horstead in Norfolk, and Felsted in Essex are not only mentioned in the nuns' budget on folio 19v. of the Chartulary of the abbey [1] but are also described in two accounts in the Chartulary. If these accounts are certainly of the twelfth century, they form a useful addition to the few specific accounts of English manors in the century after Domesday.[2]

These notices form two distinct series, of which the series first in the arrangement of the Chartulary seems also first chronologically, because of its greater simplicity and brevity. The second series is composed of reports made by sworn inquests, a fact which supports the presumption that this series dates from the reign of Henry II.[3] In the report of damages done to the abbess's property on the manor of Felsted by Simon de Felsted, detailed by a sworn inquest, it is said that Simon held a piece of land in the time of Henry the Old.[4] The statement is made in the Tilshead inquest [5] that this manor had the hundred of Dole as long as King Henry ruled. These inquests were probably made, therefore, when Henry II had restored order after the anarchy of Stephen's reign. Moreover, the handwriting of the bulk of the Chartulary is the minuscule with rounded forms characteristic of the second half of the twelfth century. One scribe obviously copied the documents

[1] B.N., MS. lat. 5650.

[2] Haskins in *Mélanges d'histoire offerts à M. Charles Bémont par ses amis* (Paris, 1913), p. 76.

[3] C. H. Haskins, *Norman Institutions* (Cambridge, 1918), p. 161 and note 23.

[4] Chartulary: B.N., MS. lat. 5650, fol. 43v. [5] *Ibid.*, fol. 45.

contained in the first eighty-six folios. Twelfth-century documents are copied on folios 87 and 88 in a characteristically thirteenth-century hand, similar to that in which a marginal note dated 1230 is written on folio 23v. It is clear that the accounts of Felsted, Pinbury, Tarrant, Hampton, Horstead, Tilshead (called Dinestai), and Avening, which compose the first series in the Chartulary, can go no farther back than the reign of Henry I; for Horstead was the gift of William Rufus and Tilshead of Henry I himself.[6] The appearance in these accounts of the *bordarii* "so conspicuous in Domesday" who "disappear almost entirely in later times" [7] may be adduced as evidence, in addition to their succinctness, that these records are no later than the reign of Henry I.

Finally, a comparison between surveys and extents dating certainly from the reign of Henry I and this series of uncertain period should show whether the suggested date is tenable. The *Liber Niger* of Peterborough Abbey, two fragments of extents in the Burton Chartulary, and a brief account of Portswood manor will serve as the basis for such a comparison. The Peterborough survey [8] was made between 1125 and 1128.[9] Two headings in a fifteenth-century hand ascribe the first account of the Burton manors to the time of King Henry and Abbot Nigel, who died 1113, and the second to the time of King Henry and the first year of Abbot Geoffrey, 1114.[10] The account of Portswood, preserved in the Chartulary of St. Denis, Southampton, describes the obligations of the manor in the time of Henry I before it was given to St. Denis.[11]

The records of Burton, Peterborough and La Trinité begin the description of each manor by stating the number of hides in it. Each of these accounts further states, in most instances, the amount of land held in demesne.

[6] W. Dugdale, *Monasticon Anglicanum* (London, 1817–30), vi, 2, p. 1072.

[7] P. Vinogradoff, *Villainage in England* (Oxford, 1892), p. 149.

[8] *Chronicon Petroburgensis*, ed. Thomas Stapleton (1849, Camden Society), appendix, pp. 157–166.

[9] *Ibid.*, Stapleton's note, p. 157.

[10] Volume v, part 1, of *First Series of Collections for a History of Staffordshire edited by the William Salt Archæological Society* (London, 1884).

[11] British Museum, additional MS. 15314; Haskins in *Mélanges Bémont*, p. 77.

In the second place, the classes of tenants and their services are described. The tenants in all these records fall into two classes, those who owe customary labor and those who owe money rent or free service. The services owed by each are much the same on every manor. The most obvious difference is the detail with which the Peterborough survey describes the customary rents due at Christmas and Easter and St. Peter's Day, the slight notice given such rents by the Burton records, and the complete absence of any rents but work and money in La Trinité's account. La Trinité differs from the other abbeys in classing land as *ad opus* or *ad gablum* without further detail. Only in the record for Felsted are the labors of the tenants described fully; and even this account is scanty in comparison with the detail given in the Peterborough survey, the Portswood account, and the Burton extents. Yet it is clear that the quantity and quality of week work and boon work were approximately the same on the manors of each of these abbeys. The virgates of Felsted which work four days a week, ploughing at Christmas time, harrowing, ploughing in the summer, manuring, doing two boon works, making money payments at Easter, are typical. Without parallel on other abbey lands are the duties of the serfs, both male and female, of La Trinité who work every day except Saturday [12] — as the late twelfth-century villein will work.

The evidence from all four accounts supports the statement that "in the vast majority of cases, rent-paying land retains some remnants of services and land subjected to village-work pays small rents." [13]

Next in importance to the size of a manor and the number of its tenants with their rents and dues is the *instauramentum* of the manor. The records of La Trinité describe the complement of livestock on each of its manors more fully than the Peterborough survey or the Burton extents. The age and sex of the swine, of the cattle, of the horses, and of the sheep are specified.

The accounts of Burton, Peterborough, and La Trinité record the mills, churches, and markets held by each abbey in its

[12] Chartulary: fols. 26, 27. [13] Vinogradoff, *Villainage*, p. 170.

manors. Details as to buildings are given for the manor of Horstead.

Of the four accounts, only the Black Book of Peterborough makes a systematic summing up of the rents from each manor. Burton never totals its dues; La Trinité only once, for Horstead.

The parallelism of these four records seems to be sufficient to mark them all as of one period. The salient points selected for treatment, the general conditions revealed, the brevity and lack of detail, all seem to point in that direction.

The sworn inquests of the late twelfth century are almost as much concerned with estimating the losses to La Trinité caused by Simon de Felsted as with describing the abbey's English manors. Simon seems to have received at farm all the English manors of La Trinité. His name is explicitly mentioned in connection with Felsted and with Hampton and Avening. On folio 38v. of the Chartulary, Simon is said to have seized the manors of the abbess of La Trinité, contrary to her will and the will of the whole convent and contrary to the oath which he swore in the abbey's chapter by command of the king.[14] The charge against Simon then runs that he had proved 40 marks against the abbess "most unjustly and unfairly" of which she had paid 28½ marks. Then follows an account of seizures on the manors of Hampton and Avening. The sum of Simon's thefts here came to 80 marks, 8*s.* 2*d.*

The evaluations of these losses are based upon the testimony of the abbess's men, once described as her *legitimi homines.* This memorandum, therefore, though set off by itself in the Chartulary, is a section of the sworn inquests on Hampton and Avening. The case is the same with the independent account of the "destruction of the woods" [15] which begins, "The men of Avening say" and bases one statement upon "the oath of your men." The loss is measured by the number of swine which could feed in the woods when Simon received them in comparison with the number of swine which could feed in the woods when the inquest was made. The woods had been more than half destroyed. All accounts agree that the harm was done by

[14] Henry I, *ante* p. 25.

[15] Chartulary: fol. 40v.

charcoal-burners, ash-burners, and sales and gifts without profit to the vill.

The account of Felsted[16] wood deals only with illegal enclosures made on the demesne of Felsted by Simon himself, particularly assarts in the forest of Essex, as for example the wood of Blacholleheie.

Simon is doubtless the immediate cause of the inquests of the second part of the twelfth century. In any case, the early accounts would have proved unsatisfactorily meagre with the passage of time. After a period of upheaval like Stephen's reign, their picture of conditions would, in addition, be utterly false. For every proprietor, a careful estimation of losses suffered during "the anarchy" was necessary to the successful balancing of receipt and expenditure. Henry II felt the force of this truth, with regard to his own inheritance. La Trinité acted upon it and, under the influence either of his precept or of his example,[17] had inquests made upon all its English manors with the exception of Tarrant Launceston in Dorset. The Calendar of Patent Rolls[18] proves that, in the fifteenth century, the yearly farm of this manor was the least in value of all the abbey's English manors. Perhaps because of its relative insignificance, perhaps because of its immunity in Stephen's reign, no inquest was made, or at least, no inquest was reported, for this manor.

All the reports of inquests contained in the Chartulary, with the single exception of the report on Felsted manor in Essex,[19] open with the list of "those who took an oath," that is, the jurors. Since, however, well toward the middle of the Felsted report occur the words *hoc dicunt jurati*,[20] there can be no doubt that the information about Felsted, as well as the information about Horstead, Hampton, Avening, and Pinbury, was obtained by a sworn inquest.

The data compiled about Felsted is neither very detailed nor very interesting. The first section consists of a list of ninety-six tenants, tenements, and services. The holdings are not

[16] Chartulary: fol. 52v. [17] Haskins, *Norman Institutions*, p. 161.
[18] 27 June, 1414. 14 July, 1439.
[19] Chartulary: fols. 41–44v. [20] *Ibid.*, fol. 44.

larger than a half-virgate, for the most part. Many of the tenements are assarts, a few are groves. Acres and quarters as well as virgates are used as units of measurement. The services, in some cases, consist simply in money rents. The usual rent for an assart is 1*d.*, and at the most 2*d.* The object of such a small rent was, of course, the inducement thus offered for the development of unimproved land. The majority of the tenants held for labor services (*opus*) as well as a money rent, but no details of the labor services are given. One man serves for his land as a forester, another as a swineherd. Two men owe, as their only services, the provision of ploughs. *Ad placitum abbatisse* is a phrase which frequently follows the statement of a money rent or service. Does it mean that a money payment was not always demanded; that it was demanded only when the abbess pleased? The most natural interpretation of the phrase when it follows *opus* is that the abbess required the sort of work she needed most. When a man is said to serve as a forester in payment for his land, at the abbess's pleasure, the phrase seems to apply to the duration of his tenure. Perhaps, in each case, the meaning is that the tenant held on these terms only so long as the abbess pleased. The list of tenants, tenements, and services ends with the statement of rents from three mills and pasture rights.

The next section, which I have already discussed, concerns Simon de Felsted. The third section is headed, "Of those who occupied demesne unlawfully." Robert, son-in-law of Simon, with his brother, and Seman, the *praepositus* or reeve, are here mentioned, and the strips of demesne *cultura*, waste, and pasture occupied by each of them. Then it is written, "The jurors say that almost all the men of Felsted, except those of Saling, hold of the abbess's demesne, save four." [21] The last section is a list of those who have houses in the market-place in front of the abbess's gate, twelve names in all.[22] Two cobblers, a forester, a clerk, and nuns appear in the list. There is no mention of service or rent.

The account of the manor of Tilshead opens with the list of jurors.[23] Then follow the names of sixteen tenants whose

[21] Chartulary: fol. 44. [22] *Ibid.* [23] *Ibid.*, fol. 44v.

tenements vary in extent from half a virgate to a virgate to half a hide, and each of whom pays a money rent and carts. A second section headed, "These are cottars" (*cotres*), is composed of fourteen names, each followed by the statement of a money rent. At the end of the list, it is stated that all these cottars will harvest *pro garba*,[24] that is, on a share basis, at the will of the abbess and her servants. The parson of the vill pays 3*s*. for one hundred sheep in pasture and he has one hundred sheep and five wethers quit. The names of nine tenants in demesne and the size of their holdings follow. The report on the inquest closes with the following statements: the church of Tilshead is in the fief of the abbess; Tilshead had the hundred of Dole, that is the profits of the hundred court, as long as King Henry ruled, but in time of war it was deforced and still is; the men of Gara claim common pasture in Tilshead and this is the rent they must pay. Finally, the *instauramentum* of the manor is set forth in detail: the livestock with its evaluation, the grains in which the arable land was laid out, and a barn. The report on Tilshead is an unusual example, among these inquests, of well-digested information thoroughly well arranged and organized. Perhaps its well-knit structure is due to the smallness of the manor under inspection. The Tilshead report is also unusual in that it contains no account of damages suffered by the manor.

Certain sections of the inquest on Avening and Hampton follow the Tilshead inquest in the Chartulary.[25] This inquest on Hampton and Avening presents such a tangle that the discussion of it may well be postponed in favor of the Horstead report,[26] which interrupts its course.

The inquest on Horstead opens with a list of fourteen jurors. The names of forty-eight tenants and their dues and services are then listed under the heading, "These occupied demesne unlawfully." Illegal seizures of demesne are seen, from such a list, to have been even more common in Horstead than in Felsted. The amount of land held by each tenant is not specified. Each owed, besides a money rent which varies in size, services of ploughing and reaping, one hen at Christmas, and five

[24] Chartulary: fol. 45. [25] *Ibid.*, fols. 45v.–50. [26] *Ibid.*, fols. 50–52.

eggs at Easter. The number of ploughings and reapings varies from one to three to five. A few tenants paid a money rent for all services. Tenements called *asilia* appear. One man owed 3*d.* from three *asilibus*,[27] another 2*d.* from two and 3*d.* from one.[28] The amount of rent makes it probable that *asilia* was another term for assart or waste land now, for the first time, brought under cultivation. The men of Dalegate,[29] apparently a member of Horstead manor, owe 3*s.*, three days in autumn, a hen, and eggs, like those who had occupied demesne. Twenty-seven *landsedes* also held there who seem to be *land setti, hôtes* in French parlance.[30] The men of Stanigehale, another member of the manor, owe 18*d.* for carrying the farm to Felsted. Two men are said to hold of demesne and to pay *censa.* Then follows, under the heading "Concerning porprestures," a list of thirty-five men who held from one to thirteen acres and are said to have domiciled themselves, to have built houses on these acres. The difference between these men and those who had occupied demesne unlawfully may be that the former squatted upon the land which they had occupied and that the latter added outlying lands to a tenement which they already enjoyed. There is no description of the rents and services for which these houses are held. The list ends with the statement that three mills of Horstead are worth £8 a year. £8 was the sum of the income from Horstead as given by the early twelfth-century account. Finally comes a statement as to the destruction of the woods of Horstead. It might seem possible that the two lists just described, one of rents owed for occupations of demesne and the other of the amount of land in each porpresture, are but two approaches to one subject. Yet, since only nine of the names of holders of porprestures can be certainly identified with the names of those who occupied demesne, the conclusion is inevitable that these are two separate series of encroachments upon demesne. One cannot but be struck with the fact that the only tenants upon Horstead, according to the inquest, are men who have seized demesne and whose seizure has been regularized. It may be that the sole object of the inquest was

[27] Chartulary: fol. 51. [28] *Ibid.* [29] *Ibid.*, fol. 51v.
[30] Vinogradoff, *Villainage*, p. 146.

to record illegal and extraordinary tenures and that the jurors, therefore, omit all reference to normal tenures.

The first instalment of the inquest on Hampton and Avening in the Chartulary comes between the accounts of Felsted and Horstead.[31] It bears no heading and begins, "These are those who took an oath." After a list of eighteen names, it is written, "These took an oath and all others in Hampton and Avening." Forthwith begins a series of descriptions of tenements, including the name of the tenant, the extent of his holding, and the quantity and quality of his dues and services. It is clear that these tenants held in Avening from the fact that all this information is repeated a few folios later under the headings, *de Aveningia firma*[32] and *Isti sunt qui gabulant.*[33] After the list of tenants in an undesignated locality, follows another list of tenants headed *de Hantonia* with the subheading *de Hastonia,*[34] the latter being clearly a subdivision of the manor of Hampton. This list also is repeated under the heading *de Hastonia.*[35] Each of these repetitions is the result of more than a scribal error. The first account of Avening and the second differ completely as to the order in which the names of the tenants are listed. Not all the tenants appear twice over. The amount of land held by a given tenant and the money rent owed are usually the same but the services do not always tally. The first account frequently notices carting as a service whereas the second consistently omits it. The first runs along in one division whereas the second has two headings, "The farm of Avening" [36] and "These are they who pay rents," with the subheading, "Concerning the laborers." [37] In the second account, the services of a virgater and of a cotselder [38] are detailed at great length, as typical of the services of all laborers of their classes. The first account has nothing to match this detail. The two accounts of Haston differ only in the order in which the names occur and in the appearance, at the close of the first account only, of a list of eight names preceded by the statement, "All these swore to this." [39] None of these names occur in the list of jurors for

[31] Chartulary: fols. 46–50. [32] *Ibid.*, fol. 47v. [33] *Ibid.*, fol. 48v.
[34] *Ibid.*, fol. 47. [35] *Ibid.*, fol. 49v. [36] *Ibid.*, fol. 47v.
[37] *Ibid.*, fol. 48v. [38] *Ibid.*, fol. 49. [39] *Ibid.*, fol. 47.

Hampton and Avening. They must represent the local jury of *Hastonia.* At the close of the second account of Avening is information on three heads, which are omitted from the first account.

I shall come back to the details of these inquests after considering the forms in which the inquest on Hampton [40] proper was copied into the Chartulary. Immediately after the inquest on Horstead is copied the destruction done to Avening wood under the heading, "Concerning the tenement of Avening," [41] followed immediately by the destruction of Hampton wood under the heading, "Concerning the tenement of Hampton."

Next comes the inquest upon Hampton manor proper. Under the heading, "Concerning the *francalani* of Hampton and the customs of the vill and the rents," follows a list of tenants, tenements, and services. After eight names, comes a subheading, "At Staford," in all probability a member of Hampton, followed by the same type of list. Next, the tenure by which a given cotselder holds is described in detail and the names of those holding according to this tenure are recorded. Paragraphs of detail about the ploughmen and shepherds of the vill, the services owed by a working virgate, and about faldage, ensue. The account of Hampton ends with a list of tenants and their holdings which would more naturally form part of the list with which the report of the inquest began. In copying, this fragment of the list of *francalani* was clearly omitted and then tacked on here. This is proved by the second version of the inquest upon Hampton, in which these names do form part of the first list, for the inquest on Hampton, like that on Hastonia and on Avening, appears twice over in the Chartulary.

The two versions of the inquest on Hampton differ, on the whole, less than the two versions of the inquest on Avening. The most striking difference between the two versions of Hampton comes at the beginning. Under the heading, "Concerning the tenement of Hampton" — which in the first version preceded the account of the destruction of the woods — the second version [42] describes fully the services of four tenants who are

[40] Chartulary: fols. 52v.–60. [41] *Ibid.*, fol. 52. [42] *Ibid.*, fol. 56v.

completely omitted from the first version. Under the heading, "Concerning those who pay gabula freely," [43] comes, in the second version, the list with which the first version opens. Thus *francalani* are to be equated with those *qui gabulant libere.* The first eight names in this list in the second version are omitted from the list in the first. The most important contrast between the two versions for Hampton is due to the omission by the first version of the four tenants who, in the second version, precede those who pay gafol freely. The services of one of these four tenants, Adam Spil, are fully described [44] and subsequently are quoted again and again, in the second version. A man is said to hold so much land, to pay so much rent, to do work in August, and to "do customs like Adam." This phrase does not, of course, occur in the first version since Adam does not. There a tenant is said to pay a certain amount of rent and to do work in August or to work for his sole service.

In the second version, as in the first, the cotselders follow immediately upon the *francalani.* Here the order in which the names are listed is different. In the second version, the services of a cotselder other than the cotselder chosen for the same purpose in the first version are detailed as the type of the services owed by all cotselders. The services owed by a "working virgate" are described in the second version immediately after the cotselders — surely a more logical arrangement than that of the first version. Then follows the information about ploughmen and the like, information identical with that of the first version. The wording of each account varies slightly and the arrangement of sentences differs widely. At the end of each version is a brief account of the tenants of Pinbury.

It is clear from such an account that the repetition is not due to the stupidity of a scribe who copied over the same document twice without recognizing it. La Trinité must have received from England two versions of the inquests on its Gloucestershire manors, versions just different enough to justify the pains of a scribe in copying each. The differences in the two accounts of Hastonia and Hampton are slight enough to make possible the theory that two men or two sets of men digested and set in

[43] Chartulary: fol. 57. [44] *Ibid.*, fols. 56v.–57.

order the report of one inquest. The differences in the two accounts of Avening, on the other hand, are so striking as to make possible the theory that there were two distinct, contemporary inquests on this one manor. A final solution of the problem is impossible.

The information on manorial conditions contained in the Gloucestershire inquests is far fuller than that found in any other of the twelfth-century inquests made for La Trinité.[45]

The men of these manors, in addition to paying money rents, perform the usual services: ploughing, reaping, often with their men as if for themselves, carting, and bedrips or boon works at harvest time. One seems to hear a note of weariness in a report like that of Richard of Avening who *tantum summavit quod numerum nescit* or that of Hedric the miller which seems to be *oratio directa, herces quam pluries facio.*[46] We are clearly in a period of indefinitely measured services. Godwin of Avening, besides ploughing and reaping for his one virgate, provides irons for four ploughs and nails for two plough ears in front, and eight sickles and eight hoes; and he mends the hasps and fastenings of doors and in alternate years gives ten horseshoes. True, he receives, in addition to his one virgate, an acre of demesne wheat in the autumn.[47] Wuhiric of Avening added to his agricultural labors care of the park and the fish pond.[48]

It is from an account like that of the services of Lewin, taken by the jurors as typical of the services of all the *operarii* or villeins of Avening, that one understands the relative advantages of the status of men like those who have just been discussed, men who in a technical sense held freely. They held freely, in that their money dues were fairly heavy and their labor services fairly light. Land owing both money rents and labor services, as land in the Middle Ages commonly did, was free or unfree according as money or labor services preponderated.[49]

In Lewin's case, labor preponderated. He worked with one man every week day save Saturdays. For ploughing two acres

[45] In discussing this information I shall not refer to variants in the two versions but I shall derive the information from the most detailed account in each case.

[46] Chartulary: fols. 46, 46v. [47] *Ibid.*, fol. 47v. [48] *Ibid.*, fol. 46v.

[49] Vinogradoff, *Villainage*, pp. 170–171.

of fallow land *de bene* in the summer, he was quit of two days of this week work and likewise for two acres in the winter. He threshed, harrowed with his horse, hoed with one man, at certain seasons. Besides this he owed bedrips and wifirip — which seems to mean a boon work on the part of his wife,[50] or of a woman. He carted every week. He had to make malt. For drying it, he was allowed to take wood without paying damages. Besides all his extra ploughing, harrowing, and reaping, he ploughed and reaped like the others — who held freely.[51]

The typical cotselder — that is the tenant of a small piece of land with a homestead, who had no share in the common arable lands — worked two days a week in Avening, paid two hens at Martinmas, helped with the brewing. If the "lady" were at Bristol or Gloucester or elsewhere, he was bound, on foot or on horseback, to carry the hens to her. He had to supervise her sheep at lambing time according to the "showing" of her shepherd. He was bound, when it was necessary, to drive live-stock to Felsted or Horstead or elsewhere. For his occasional services he was quit of certain days of his week work.[52]

All the *operarii*, of whatever tenure, paid at the pleasure of the abbess for dead wood, thorn, and arable in Heselholt; — 2*d.* if a man had a horse, 1*d.* if he had not. The men from the eastern part of the *curia* paid *pro cuis suis* [53] which they ought to have; 1*d.* if a man had an ox, one hen if he had not.[54] The jurors of Avening closed their report with an account of the development of land tenure in Avening. "At first, in Avening, there were two virgates owing military service, afterward five *pro franco gabulo* and afterward fourteen in the abbess's pleasure either for *gabulum* or work." [55] There is an example here of the deterioration in tenure which Miss Neilson has traced on the Ramsey manors.

In Hastonia, also, the tenants hold either for money payments or labor services, at the pleasure of the abbess.

The typical cotselder of Hampton did much the same services

[50] Cf. Chartulary: fol. 59v. A virgater harvests 3 bedrips and his wife 1 wifenirip.
[51] *Ibid.*, fol. 48v. [52] *Ibid.*, fol. 49.
[53] Are "cuis" *cuvis* — large open mouthed vessels, barrels? [54] *Ibid.*, fol. 49.
[55] *Ibid.*, fols. 58v., 54v.

as the cotselder of Avening. He worked two days a week and helped with the brewing, but here he had the advantage over his neighbor of receiving, with his companions, one setier of beer. He drove livestock when ordered and carried hens. He helped at lambing time, guarded thieves, watched the cheese at night, and kept the swine with the swineherd.[56]

The typical virgater [57] of Hampton likewise closely resembled the virgater of Avening. Besides his agricultural labors which are identical with those enumerated for Avening, he was bound to buy a *nummata* of beer if "the lady should make a tavern"; in other words, brew. He was bound to provide vessels for the brewing and to make malt. His carting services are explicitly described. He was to find a horse once a year for carrying cheese and bacon to Subhampton, and in harvest time, he was to carry four wagon-loads to Herdwita and three beyond. Even if the virgater were excused from agricultural labors on the score of being a miller or a shepherd or a swineherd, he must provide one horse yearly. "The lady may make one defense of pasturage, in addition to Dunae, against her men's beasts until All Saints' Day, provided she use neither Longgerstun nor Inleuda for this defense." Every tenant of working land had to harvest three bedrips and his wife one, with the help of his men. The customary rents owed by the virgater of Hampton conform to type. From every house whence smoke issues, a hen at Christmas and five eggs at Easter are due. The virgater owed 1*d.* from every pig over a year old (since last Holy Cross Day) and 1 obol from every pig half a year old whether they pastured in the wood or not. He owed either 1*d.* of toll or one *nummata* of beer *de taverna*, that is, if he brewed. If he sold a horse within the tenement, he owed 2*d.* of toll and the purchaser 2*d.* If he sold an ox, he must pay 1*d.*

All tenants on Hampton, save the *francalani*, owed 1*d.* to St. Peter for their wives and if they had no wives 1 obol. "These Peter's pence the 'lady' collects and she pays to St. Peter 5*s.* from Hampton."

Under the heading *de pecuris*, the virgater's obligation to faldage is treated. "Every man whose flock is not enclosed by

[56] Chartulary: fols. 59–59v., also fols. 55–56. [57] *Ibid.*, fol. 49v.

Ascension Day shall pay a sheep with a lamb as a penalty." Embodied with the faldage regulation is a statement difficult to interpret but interesting because of its reference to the manorial court. *Si mulieres serviles merentur venient ad halimotum et si non potuerunt se excusare cum quinque feminis indicabuntur in forisfacto de 10s.*[58] Just what the offence is of which the servile woman must excuse themselves with five women before the halimot or pay the heavy fine of 10*s.*, it is hard to say.

The privileges of ploughmen and shepherds in Hampton are fully detailed.[59] There were ten ploughmen in Hampton, each with five acres. They ploughed for themselves Saturday. They received one sheaf from each wagon-load and one acre of demesne wheat. From Hock-day to August, they had the milk of the sheep every Sunday morning save Whitsunday. They had the third acre of the tithe and the third lamb. Their wives were to lead the sheep out to pasture and they were to mess with the shepherds and each was to work one *lusdi* from Michaelmas up to the time at which sheep are led out to pasture.

There were two shepherds in Hampton, each with a virgate for which he was to keep the sheep all week long, including Saturday. Every Saturday, he was to have a jar in which cheese full of salt was pressed down. The sheep folded upon the shepherds' lands for twelve days at Christmas time. The shepherds had sheep milk the morning of Whitsunday. They were quit of bedrips but their sons and daughters owed one and their wives two. Each shepherd had one fleece and one lamb a year.[60]

There was one cow herd who had half a virgate in return for which he kept watch over the cows and animals not useful for work or milk.

The virgaters in Pinbury are described as *francalani*. They owed four days work a week from Michaelmas to *S. Petrus ad vinculam* or August 1, and five days work in August, and carting in addition. They were to plough as many acres as they had *iuga*. They had the feast days for their own work.[61]

Three inquests made on English manors in the second half of

[58] Chartulary: fols. 59v., 56. [59] *Ibid.*, fols. 59v.–60, also fol. 54v.
[60] *Ibid.*, fols. 56v., 60v. [61] *Ibid.*, fols. 56v., 60v.

the twelfth century, the inquest of 1181 on the manors of St. Paul's,[62] the inquisition on the manors of Glastonbury Abbey of the year 1189,[63] and the extents of Ramsey Abbey in the generation after Henry I,[64] may be used to test the closeness to type of the contemporary inquests on La Trinité's English manors. Only a fragment of the inquisition of 1181 for St. Paul's remains. The so-called inquisition of 1181 which is preserved entire is probably earlier than 1181, though certainly later than 1170.[65] The fragmentary character of the one and the summary nature of the other prevent their forming a useful basis for comparison with La Trinité. The names of tenants and their services are not mentioned in the record made between 1170 and 1181. The facts noted are the number of hides in the manor, the amount and quality of land in demesne, the payments owed to shire and hundred, and, in some cases, the potential *instauramentum* of the manor, that is the ploughs needed to cultivate it and the number of animals for which there is pasture room. The right of scotale, a drinking feast at which the tenant must buy the lord's beer, is mentioned.[66] It appears also in the Glastonbury inquests and may be compared with the "lady's" brewing on Hampton when the tenants must buy her beer. A detail in the inquest of 1181 on the churches of St. Paul's[67] throws light on a point in the Hampton inquest. Peter's pence was collected and paid over to Rome by the dean of the place or by the priest or by the farmer of the manor. It thus becomes clear, since the collection of this due could vary so widely, why the jurors of Hampton took pains to state that it was the abbess who collected this due, probably through her farmer. The inquests on the manors of St. Paul's also gave the payments of each manor to the canons and the amount of total rent of each manor.

[62] *Domesday of Saint Paul's of the Year 1222 or Registrum de Visitatione Maneriorum per Robertum Decanum*, ed. William Hale (1759, Camden Society), pp. 112–114, 140–152.

[63] *Liber Henrice de Soliaco Abbatis Glaston. An inquisition of the Manors of Glastonbury Abbey of the Year 1189*, ed. John E. Jackson, London, 1882.

[64] *Cartularium Monasterii de Rameseie*, ed. W. H. Hart and R. A. Lyons (London, 1884–93, Rolls Series), iii, 224–314.

[65] Introduction to *Domesday*, p. ci.

[66] *Domesday*, pp. 140–146.

[67] *Ibid.*, pp. 146 ff.

The Glastonbury inquest notes, at the start, the questions asked of the jurors by the inquisitors. The jurors were to tell how much land each man held, all his service, who held freely, how much and for what service and on what guarantee and at what time. They were to report if any land had been made free in the time of Henry the bishop or afterwards which ought to work, on what guarantee this was, and to what degree it was free. The inquisitors further wished to know if demesne had been occupied or whether men outside the manor had been established in freedom or in villeinage, and if the arrangement were useful to the lord as it stood or if it had been revoked.[68] This might well have been the programme both of the extents of Ramsey and of the inquests of La Trinité.

The Glastonbury inquest opens with an account of the funds received by the obedientiaries and of the perquisites of the obedientiaries and of the servants of the abbey.[69] Then each manor is treated in turn. For each are recorded the names of the jurors, the names of the tenants, their holdings and their services, and the *instauramentum*. The agricultural services owed by those holding freely and by the villeins are almost identical in quantity and quality with those which we have seen for the same classes on the manors of La Trinité. The chief exception is work on the vineyards owned by Glastonbury; digging and gathering the vintage. A difference is also marked in the assignment of agricultural work on the manors of both abbeys. The days of the week on which certain work is to be done are usually specified for the tenants of Glastonbury but never for the tenants of La Trinité. Also, whereas the villein of La Trinité commonly works every day in the week except Saturday, the villein of Glastonbury works three days a week from 29 September to 1 August and, throughout August and September only, works every day in the week. On the manors of La Trinité, the villein had any feast day which occurred for his own work; on the manors of Glastonbury, he had only every alternate feast day for himself.

The customary rents are practically the same in both sets of inquests, the chief exception being the payment of honey which

[68] *Liber H. de Soliaco*, p. 21. [69] *Ibid.*, pp. 8–18.

is very common on the Glastonbury manors and without example on the manors of La Trinité. Church Scot, a rent paid to the lord of the manor, and hearth silver, identified by Miss Neilson with Peter's pence,[70] are common on the Glastonbury manors. A few tenants of Glastonbury, as well as of La Trinité, hold for a plough. The service of guarding prisoners, with which we may compare the Hampton obligation to guard thieves, is of frequent occurrence for Glastonbury. The services by which smiths and carpenters held of both abbeys vary little. The burdens of the smith of Avening, however, are far heavier than those of any smith on the Glastonbury manors. The duties of the Glastonbury smiths are limited to making plough shares and shoeing horses. The Glastonbury inquisition contains no account of the privileges of ploughmen and shepherds, so fully described in the inquests of La Trinité. A parson's privileges, which remind one of those enjoyed by a parson of Tilshead, are, however, detailed. The Glastonbury parson had eight oxen in demesne pasture, four cows, one bull, and nineteen swine free of pannage.[71] The Tilshead parson, it will be remembered, paid for one hundred sheep and had one hundred more and five wethers quit.[72] Faldage from Hock-day to Michaelmas is only briefly mentioned in the Glastonbury inquest [73] in contrast to the full details for Hampton manor. Toll for the sale of animals on the manor is described by the Glastonbury inquest in the same terms as those of the Hampton inquest.[74] Attendance at the shire and hundred court is a service of the Glastonbury tenants which is never recorded in the inquests of La Trinité.

The twelfth-century extents of Ramsey manors are similar to the accounts of La Trinité and Glastonbury. For each manor, the hidation is stated and a list of free tenants and tenants holding by money rent, with their services and payments, is drawn up. The labor services of the typical virgater and cottar are described,[75] more briefly than in the inquests on

[70] N. Neilson, *Customary Rents* (Oxford, 1910, Oxford Studies in Social and Legal History, vol. ii), p. 193.

[71] *Liber H. de Soliaco*, p. 28.

[72] Chartulary: fol. 45.

[73] *Liber H. de Soliaco*, p. 137.

[74] *Ibid.*, pp. 71, 76.

[75] Neilson, *Economic Conditions on the Manors of Ramsey Abbey* (Philadelphia, 1899), p. 24.

Hampton and Avening. Boon works are almost entirely undeveloped.[76] The amount of land held freely is considerable in comparison with that held by labor services. For some manors, the *instauramentum* is described.

The chief likeness in all three reports is the account taken, by each, of damages to property in Stephen's time. The farm of more than one of the manors of St. Paul's had decreased since the reign of Henry I *propter vastum bosci et maris qui fiebat tempore guerre*.[77] Glastonbury notes the destruction of a mill *tempore Stephani regis* [78] and a porprestures made in the reign of the same king.[79] The Ramsey extents contain long lists of unlawful occupations of demesne [80] and of porprestures.[81] We have seen that the inquests of Felsted and Horstead deal almost exclusively with encroachments on demesne.

In summing up the resemblances or differences in these twelfth-century inquests, one is met by the difficulty that no two of the inquests made for La Trinité conform to the same type. Felsted and Horstead are concerned with invasions upon the abbess's rights. Hampton and Avening are reported upon with a fulness which is characteristic of thirteenth-century inquests. Only the inquest on Tilshead seems normal. Since this inquest is exactly comparable to the Glastonbury inquests and since the information gathered for St. Paul's, Glastonbury, Ramsey, and La Trinité is of approximately the same character and extent, it seems safe to say that, in this period, each abbey wanted to know the same facts about its possessions and that each abbey took the same steps to ascertain these facts.

One feature which these reports have in common explains why, in the thirteenth century, the process had to be repeated. The services on the majority of the manors are briefly treated, and the accounts were, therefore, found to be too indefinite. In all of them occur phrases like "whatever he is bid" or "whatever the lord command" or "at the abbess's pleasure" or "without measure" or "a day's work as the reeve shall assign it." They were phrases "to suit the case when work was done

[76] Neilson, *Economic Conditions*, p. 50.
[77] *Domesday*, p. 142. [78] *Liber H. de Soliaco*, p. 121. [79] *Ibid.*, p. 87.
[80] *Cart. Mon. Ram.*, p. 224. [81] *Ibid.*, p. 228.

by the day and not by a set quantity" and did not indicate arbitrary tyranny on the lord's part. These vague descriptions occur only in the older surveys because "manorial customs were developing from indefinite rules to the minute settlement of details." [82] Miss Neilson has shown that, in the case of Ramsey at least, the new extents of the thirteenth-century mark, in the increase upon earlier obligations visible in the exact description of the services of each villein, "a step forward upon the lord's part dictated by his desire to ensure what he had already gained." [83]

Thus, the extents of the first half of the twelfth century became insufficient by reason of the changes wrought in the value of property by Stephen's reign; the inquests of the second half of the century became insufficient by reason of the increase in the lord's demands upon his tenants.

No summary of the value of La Trinité's English manors as defined in these inquests is possible. It is clear, from directions as to carting services, that the manors of La Trinité sent farms or food-rents to the abbey in Caen. This practice was common to manors of contemporary English abbeys; "in most great groups of manors belonging to churches, a highly elaborated system is found by which certain manors sent up in regular rotation once, twice, thrice, even seven times a year, a specified supply of food." [84] We know, from the nuns' budget, that La Trinité depended for its regular food supply, not upon its English manors, but upon its Norman manors whence perishable materials could be cheaply and speedily brought. We hear, also, in the same budget, of cheese and bacon and wood from England, as we heard of a tenant in Hampton who was bound to transport cheese and bacon. But no figures of the amount of food stuffs thus exported to France are available. The figures of Eudes Rigaud a half century later, are our only source of information on this point. He put the income of La Trinité at 2500 *librae turonensium* and added 160 *librae* from England.[85]

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[82] Vinogradoff, *Villainage*, pp. 298–301.

[83] Neilson, *Economic Conditions*, p. 25. [84] Neilson, *Customary Rents*, p. 16.

[85] Eudes Rigaud, *Registrum visitationum archiepiscopi Rothomagensis*, ed. T. Bonnin (Rouen, 1852), p. 94.

THE CLAIM OF KING HENRY I TO BE CALLED LEARNED

King Henry I, called Beauclerc, has enjoyed so long and persistent a reputation for extraordinary learning that it seems worth while to trace its history in order to be in a position to evaluate more justly the meagre evidence which exists concerning his education and learned accomplishments. The enthusiastic exaggerations of such writers as Palgrave [1] and Freeman [2] are no longer taken seriously, but such careful scholars as G. B. Adams [3] and H. W. C. Davis [4] have not hesitated to credit him with an education which would have been quite extraordinary among princes of the age in which he lived. The former speaks of his love of books, the latter of the instincts of an educated man which he possessed, and both credit him with a good knowledge of Latin and attach some importance to the view that he knew English.

Among the chroniclers who wrote during Henry's lifetime, only two make any mention of his learning, viz. Ordericus Vitalis and William of Malmesbury; and the importance of their accounts, which are not long, seems to require full quotation.

Ordericus Vitalis speaks of Henry's learning in three separate passages as follows:

(a) Hic [Henricus], dum dociles annos attigisset, litterarum scientiam didicit, et post utriusque parentis obitum militiae agones fortiter exercuit.[5]

(b) Hic [Henricus] in infantia studiis litterarum a parentibus traditus est, et tam naturali quam doctrinali scientia nobiliter imbutus est. Hunc Lanfrancus, Dorobernensis episcopus, dum iuvenile robur at-

[1] *History of Normandy and England* (London, 1851–64), iv, 220–227.

[2] *History of the Norman Conquest*, 2nd ed. (Oxford, 1870–76), iv, 229, 794–798.

[3] *History of England from the Norman Conquest to the Death of John (1066–1216)* (London, etc., 1905), p. 116.

[4] *England under the Normans and Angevins (1066–1272)* (London, 1905), pp. 68, 183; *Encyclopaedia Britannica*, 11th ed. (Cambridge, 1910–11), xiii, 280.

[5] *Historia Ecclesiastica*, ed. Auguste Le Prévost (Paris, 1838–55), ii, 182.

tingere vidit, ad arma pro defensione regni sustulit, eumque lorica induit, et galeam capiti eius imposuit; eique, ut regis filio et in regali stemmate nato, militiae cingulum in nomine Domini cinxit.[6]

(c) Litteratus vero rex [Henricus] epistolam legit.[7]

William of Malmesbury describes Henry's education and learning in the following passage:

Infans [Henricus] iam tum omnium votis conspirantibus educatus egregie, quod solus omnium filiorum Willelmi natus esset regie, et ei regnum videretur competere. Itaque tirocinium rudimentorum in scholis egit litteralibus, et librorum mella adeo avidis medullis indidit, ut nulli postea bellorum tumultus, nulli curarum motus, eas excutere illustri animo possent. Quamvis ipse nec multum palam legeret, nec nisi summisse cantaret; fuerunt tamen, ut vere confirmo, litterae, quamvis tumultuarie libatae, magna supellex ad regnandum scientiae, iuxta illam Platonis sententiam, qua dicit "Beatam esse rempublicam si vel philosophi regnarent, vel reges philosopharentur." Philosophia ergo non adeo exiliter informatus, sensim discebat ut successu temporis provinciales mitius contineret, milites nonnisi diligentissime explorata necessitate committere sineret. Itaque pueritiam ad spem regni litteris muniebat; subinde, patre quoque audiente, iactitare proverbium solitus, "Rex illiteratus, asinus coronatus." [8]

The history of Ordericus Vitalis lay hidden at Saint-Évroul and was little used by other writers during the Middle Ages; [9] but the work of William of Malmesbury was drawn upon, either directly or indirectly, by nearly all the later writers who elaborated the traditional account of mediaeval English history; and Henry I had been dead perhaps less than a century when the statement of William of Malmesbury began to seem inadequate.[10] It was apparently Matthew Paris who began the work of elaboration. "Iste clericatui addictus legis peritus extitit," [11] he says in a commentary on the prophecies of Mer-

[6] *Hist. Ecc.*, iii, 267.

[7] *Ibid.*, iv, 195.

[8] *Gesta Regum*, ed. William Stubbs (London, 1887–89), ii, 467.

[9] Léopold Delisle, introduction, in Ord. Vital., *Hist. Ecc.*, i, pp. lix–lx.

[10] In tracing the growth of Henry's reputation for learning through the later Middle Ages and early modern times, no attempt has been made at completeness. The matter could very probably be pushed further by an examination of manuscript sources, and it is not improbable that some important printed book has been overlooked. But it is hoped that enough material has been used to give a substantially correct view of the development.

[11] *Chronica Maiora*, ed. H. R. Luard (London, 1872–83), i, 202.

lin which, if one accept the views recently expressed by the Rev. Claude Jenkins, he may well have written some years before 1236;[12] and he afterwards expanded this surprising statement with the explanations that Henry's knowledge of law had been secretly acquired and that the Conqueror had destined him for clerical office (*officium clericale*) because he was unwarlike, or unfit for war (*imbellis*).[13] But whether Matthew Paris derived these ideas from his own imagination or from some popular tradition or from some written source, it seems at present impossible to say. Henry is twice referred to as founded in "clergy" (*en clergie fundé*) by the anonymous author of the so-called continuation of Wace's *Brut*, which, to judge from internal evidence, was composed in the west of England, perhaps at Tewkesbury, at a period almost exactly contemporary with that in which Matthew Paris wrote.[14] Again, about the year 1300, his "clergy" was praised by Robert of Gloucester in the following verses:

> Vor that he yongost was to boc is fader him drou,
> That he was as to him bivel, god clerc ynou.
> So that nevereft afterward, tho he king was,
> He nolde is clergie bileve vor nobleye ne other cas.[15]

Even before this the term "clerk" (*clericus*) had been applied

[12] *The Monastic Chronicler and the Early School of St. Albans* (London, 1922), p. 79. On the early history and interpretation of the prophecies of Merlin see Rupert Taylor, *The Political Prophecy in England* (New York, 1911), especially pp. 8–15, 39–44, 87–89.

[13] "Erat quippe eleganter literatus, utpote a primaeva aetate praecepto patris addictus literis, et iam in iure quod audierat secreto expeditus . . ." *Chronica Maiora*, ii, 130.

"Henricus, providus, sed astutus et avarus, patre sic iubente, quia imbellis, officio clericali est addictus, et in eo bene ac expedienter profecit; et iam legisperitus effectus est . . ." *Historia Anglorum*, ed. Frederic Madden (London, 1866–69), i, 31.

"Vir videlicet literis addictus et iam eleganter in grammatica et iure eruditus." *Ibid.*, p. 163.

Roger of Wendover (d. 1236), the predecessor of Matthew Paris at St. Albans, has not a word to say about Henry's education or learning.

[14] *Continuation du Brut d'Angleterre de Wace*, in *Chroniques Anglo-Normandes*, ed. Francisque Michel (Rouen, 1836–40), i, 85, 93. According to the Abbé de La Rue (*Archaeologia*, xiii, 241–246) this was written at Amesbury in Wiltshire about 1241; but Ferdinand Wolf (*Jahrbücher der Litteratur*, lxxvii, 90–98) has argued more convincingly in favor of Tewkesbury as its place of composition and has expressed the opinion that it may have been written in the main somewhat earlier than 1241, the late events to which it refers being explained as interpolations.

[15] *Metrical Chronicle*, ed. W. A. Wright (London, 1887), ii, 620, lines 8690–8693.

to him as a popular surname,[16] and it continued in frequent use during the fourteenth and fifteenth centuries.[17] It was apparently the anonymous author of the *Brut or Chronicles of England*,[18] writing in the second half of the fourteenth century, who first called him Henry Beauclerc, and this name became increasingly popular thereafter.[19]

The next important step in advancing Henry's scholarly reputation seems to have been taken in the second half of the fifteenth century by Thomas Rudborne who declared him to have been a student and master of arts of Cambridge University,[20] and this legend continued to be repeated as late as the eighteenth century.[21] In the sixteenth century Henry began to

[16] "[Henricus] quem vulgus clericum nuncupabat." Thomas Wykes (d. ca. 1293), *Chronicon*, in *Annales Monastici*, ed. H. R. Luard (London, 1846–49), iv, 11. Freeman (*Norman Conquest*, iv, 795) cites this as the "earliest sign" which he had come across of "the traditional name *Beauclerc*." It does appear to be the earliest recorded use of *clericus*, but the appellation is very evidently derived from the *clericatus* or *officium clericale* of Matthew Paris or from some similar expression of an earlier period.

[17] Fourteenth century: *Flores Historiarum*, ed. H. R. Luard (London, 1890), ii, 57, note — from MS. Re, which, according to the editor (vol. i, p. xxii) was written about 1304; Ranulf Higden, *Polychronicon*, ed. J. R. Lumby (London, 1865–86), vii, 312; Henry Knighton, *Chronicon*, ed. J. R. Lumby (London, 1889–95), i, 77; John Trevisa, translation, in Higden, *Polychronicon*, vii, 313. Fifteenth century: John Brompton, *Chronicon*, in Roger Twysden, *Historiae Anglicanae Scriptores Decem* (London, 1652), col. 997; John Capgrave, *Liber de Illustribus Henricis*, ed. F. C. Hingeston (London, 1858), p. 55.

[18] Ed. F. W. D. Brie (London, 1906, for the Early English Text Society), i, 137, 138, 140. The instances cited are from what the editor calls the "common Brut," which comes down to 1333 and was probably written between 1350 and 1380. See F. W. D. Brie, *Geschichte und Quellen der mittelenglischen Prosachronik, the Brute of England oder the Chronicles of England* (Marburg, 1905), p. 54.

[19] The following examples have been noted: *Eulogium Historiarum sive Temporis*, ed. F. S. Haydon (London, 1858–63), iii, 56, used only in a chapter heading which might easily be later than the text of the work, which was finished in 1367; Thomas Rudborne (*fl.* 1460), *Historia Maior de Fundatione et Successione Ecclesiae Wintoniensis*, in Henry Wharton, *Anglia Sacra* (London, 1691), i, 273, 274, 275; *A Short English Chronicle*, in *Three Fifteenth Century Chronicles*, ed. James Gairdner, in Camden Society, 2nd series, xxviii, 17; John Ross (d. 1491), *Historia Regum Angliae*, ed. Thomas Hearne (Oxford, 1716), p. 137; Raphael Holinshed (d. ca. 1580), *Chronicles of England, Scotland and Wales* (London, 1807), ii, 25, 47, 74; John Stow (d. 1605), *Annales or a General Chronicle of England* (London, 1631), p. 135.

[20] *Historia Maior . . . Ecclesiae Wintoniensis*, in Wharton, *Anglia Sacra*, i, 273: "Hic tertio paterni regni anno in thoro regio genitus, postmodum in liberalibus artibus in Universitate Cantebrigiae suum primum protrivit tyrocinium, factusque est inibi magister in artibus." It may be noted that the way was prepared for Rudborne by Higden and Knighton in the fourteenth century, who represented Henry as a student "in liberalibus artibus." Higden, vii, 416; Knighton, i, 113.

[21] The following instances may be cited: Stow, *Annales*, p. 135; John Leland (d. 1552),

gain a reputation as an author. Leland, discovering a copy of the *Leges Henrici Primi* in St. Augustine's, Canterbury, described it in his Commentaries as "liber . . . ex publicis regni decretis ab eo elucubratis et editis compositus; unde et leges etiamnum Henricianae, nomine ab autore sumpto, dicuntur";[22] and this statement was faithfully copied by Bale and Pits and Tanner, who added that Henry was also the author of letters to Anselm.[23] So matters stood until the second quarter of the nineteenth century when the Abbé de La Rue added further to Henry's literary fame by listing him among the Anglo-Norman *trouvères*![24] In the epilogue to her collection of Æsopian fables Marie de France speaks as follows:

> Esope apelë um cest livre,
> Kil translata et fist escrivre,
> De Griu en Latin le turna.
> Li reis Alvrez, ki mult l'ama,
> Le translata puis en Engleis,
> E jeo l'ai rimé en Franceis,
> Si cum jol truvai, proprement.[25]

Basing his argument on inferior manuscripts which contain the reading *Henris* in place of *Alvrez*, in the fourth verse above quoted, La Rue declared Henry I to have been the author of the English version of the fables which Marie de France used.[26] Further, La Rue asserted that Henry was the author of a short poem in French, entitled *Urbanus* or *Le Dictié d'Urbain*, which dealt with the rules of conduct in polite society. La Rue acknowledged that this poem was nowhere directly attributed to

Commentarii de Scriptoribus Britannicis, ed. A. Hall (Oxford, 1709), pp. 177–178; idem, *Collectanea*, ed. Thomas Hearne (London, 1774), ii, 418; John Bale (d. 1563), *Scriptorum Illustrium Maioris Brytannie . . . Catalogus* (Basel, 1559), p. 37; John Pits (d. 1616), *De Illustribus Angliae Scriptoribus* (Paris, 1619), p. 203; Thomas Tanner (d. 1735), *Bibliotheca Britannico-Hibernica* (London, 1748), p. 94 (Tanner also cites Anthony à Wood, *Historia et Antiquitates Universitatis Oxoniensis* (Oxford, 1674), i, 46, as contending that Henry was educated at Oxford); Sir John Hayward (d. 1627), *Lives of the III Normans, Kings of England . . .* (London, 1613), p. 233.

[22] *Commentarii de Scriptoribus Britannicis*, p. 177.

[23] Bale, *op. cit.*, p. 37; Pits, *op. cit.*, p. 203; Tanner, *op. cit.*, p. 94.

[24] *Essais historiques sur les bardes* (Caen, 1834), ii, 33–40.

[25] *Die Fabeln der Marie de France*, ed. Karl Warnke (Halle, 1898), pp. 327–328, lines 13–19.

[26] *Op. cit.*, pp. 34–37.

Henry I; but he knew of a Latin poem, entitled *Urbanus*, whose author appeared to cite an "old king Henry" (*rex vetus Henricus*) as having preceded him upon the same theme, and he concluded that the king in question was Henry I.[27] Thomas Wright soon protested against these perfectly arbitrary attributions, and he did not hesitate to strip Henry I of every claim to authorship.[28] Nevertheless, Thomas Duffus Hardy listed him among authors in his *Descriptive Catalogue* published in 1862; [29] and Palgrave, writing at almost the same time, ranked him as a man of letters and cultivation beside Leo X and Francis I, accepted the attributions of La Rue, and appears to have had no doubt that Henry translated Aesop's fables from Greek into Latin, as well as from Latin into English; [30] and Freeman, in 1876, declared that he "was taught all the learning of the age," that "his proficiency became wonderful among contemporary princes," and he accepted, though with some misgivings, Palgrave's view that Henry translated Aesop's fables from Greek into Latin and thence into English.[31] Since the view of Thomas Wright that Henry has no claim to be ranked as an author has perhaps hardly yet entirely prevailed, as it should have done, it may now be added as a known fact that the English version of *Aesop* which Marie de France used was by neither Alfred nor Henry I, though it was current under Alfred's name in the twelfth century.[32] And as for *Le Dictié d'Urbain*, it may be noted that the Latin *Urbanus*, on which La Rue based his rash conclusion, was not a poem on good manners at all, but a poetic treatise on hygiene, a very early version, in fact, of the famous *Scola Salernitana* or *Regimen Sanitatis Salernitanum*, apparently dating from about 1180; and the

[27] *Op. cit.*, pp. 37–40.

[28] *Biographia Britannica Literaria*, Anglo-Norman Period (London, 1846), pp. 66–67.

[29] *Descriptive Catalogue of Materials Relating to the History of Great Britain and Ireland* (London, 1862–71), ii, 194–195.

[30] *History of Normandy and England*, iv, 220–227.

[31] *History of the Norman Conquest*, iv, 229, 794–798: "The learned education of Henry is certain, and it may probably have gone as far as to take in a knowledge of Greek."

[32] Warnke, in *Die Fabeln der Marie de France*, introduction, pp. xliv–xlviii. For the more recent literature dealing with Marie de France, see Axel Ahlström, *Marie de France et les lais narratifs* (Gothenburg, 1925) and Warnke's introduction to *Die Lais der Marie de France*, 3rd edition (Halle, 1925), and the works which these authors cite.

rex vetus Henricus to whom it refers seems to have been King Henry II.[33] There are, therefore, no works in either Latin, English, or French which can be attributed to Henry I, and his claim to authorship must definitely be abandoned.

The last attempt to add to the fame of Henry I for learning was made by Mr. Freeman who, in his *Reign of William Rufus* (1882),[34] undertook to prove from documentary evidence that Henry "spoke English familiarly." This evidence, which Freeman had not actually seen, consists of a narrative in the cartulary of Colchester Abbey, which introduces a charter purporting to be a confirmation by Henry I in 1119 of the foundation of the abbey by Eudo the Dapifer and Rohaisa his wife. According to this narrative, Abbot Gilbert, upon assuming office, found that the fundamental charters were missing, and he accordingly proceeded to have others prepared in their place ("In primordiis itaque cum ecclesie munimentum requisisset et nulla cuiusvis momenti repperisset aliqua paranda decrevit"). Having held an inquest, he had a foundation charter drawn up and sent it over sea by Osmund the prior, to Eudo and Rohaisa, the pious founders, in order that they might obtain its confirmation from King Henry who was then in

[33] The MS. B.N. latin, no. 3718, to which La Rue referred, has been fully and carefully analyzed by E. Faral, in *Romania*, xlvi, 231–270. The Latin *Urbanus* is supposed to have been composed by Daniel Church (*Ecclesiensis*), a poet said by Bale to have resided for some thirty years at the court of Henry II: *Index Britanniae Scriptorum*, ed. Poole and Bateson (Oxford, 1902), pp. 59–60; *Scriptorum Illustrium Maioris Brytannie . . . Catalogus*, p. 221. In the former work Bale cites "bibliothecae cantabrigianae" as his source of information; but in the latter he gives as the sole source "vetustum quoddam chronicon Londini repertum." Daniel Church appears not to be otherwise known. There are references to him by Pits, Tanner, Fabricius, Leyser, Wright, and Hardy (cf. Ulysse Chevalier, *Bio-bibliographie*, new ed. (Paris, 1905–07), col. 1111), but they really add nothing to the statement of Bale, although Fabricius and Wright cite manuscript works conjecturally assigned to him. P. Meyer (*Romania*, xxxii, 69–70) shows that the poem attributed to him by Fabricius is not his. Faral (*ibid.*, xlvi, 252, n. 4) shows that the error of Fabricius is derived from Leyser, who in turn repeats it from Brown, *Catalogus Librorum MSS. Collegii S. Trinitatis apud Dublinium*, in [Edward Bernard], *Catalogi Librorum MSS. Angliae et Hiberniae* (Oxford, 1697), ii, 2, p. 23, no. 275 (this is no. 97 in T. K. Abbott, *Catalogue of the Manuscripts in The Library of Trinity College, Dublin*, Dublin and London, 1900). William Blades (*The Biography and Typography of William Caxton*, 2nd edition (London, 1882), p. 204) ascribes to him the authorship of a few Latin precepts which stand as an introduction to the well-known *Distichs of Cato*, in some versions, and are collectively known as *Parvus Cato*.

[34] Vol. i, preface, pp. vii–viii.

Normandy. When they brought it to the king at Rouen, he ordered it to be read in his presence by his clerk, John of Bayeux, who, when he came to the customs which were written in English (*consuetudines Anglice scriptae*), stopped short, alleging that he did not understand. Then the king, for he was very learned (*erate nim optime litteratus*), took the charter and read it and explained it to those who were present. And then after he had deliberated in silence for a long time, he confirmed the charter, though somewhat reluctantly, for the sake of his love of God and of Eudo. In the charter of confirmation which follows this narrative, the English customs on which the royal clerk stuck are set down as follows: "mundbryce, burhbryce, miskennige, sceawinge, hlestinge, frythsokne, flymenasfyrmthe, wergeldweof, uthleap, forfeng, fygfeng, fyrdwite, fyhtwite, weardwite, hengwite, hamsokne, forstall, infangenethief, saka, sokna, toll et team." [35] This evidence was freely discussed on several occasions by Mr. Round, though without the rigorous criticism which one was accustomed to expect from him. At first he was inclined to treat the story as true and to regard the charter as genuine; and he contented himself with arguing, against Mr. Freeman, that the charter did not contain enough English to prove Henry's familiar knowledge of that language.[36] But later, after the Colchester cartulary had been printed, he modified his view and declared the charter to be not genuine "in the inflated form in which it appears in the cartulary," and he argued strongly against the truth of the pretty story which introduces it, on the ground that there is good reason to believe that Eudo could not have been present with the king at Rouen as the narrative alleges.[37] The matter was not really settled, however, until the publication by the Rev. J. Armitage Robinson, in 1911, of a notable appendix on the early charters of Colchester Abbey in his *Gilbert Crispin, Abbot of Westmin-*

[35] *Cartularium Monasterii Sancti Johannis Baptiste de Colecestria*, ed. S. A. Moore (London, 1897), i, 4–7.

[36] "Henry I as an English Scholar," in *Academy*, xxvi, 168. The great merit of this article was that, for the first time, it made available in print the texts in question. Round obtained them, however, not from the cartulary, but from late transcripts of it, for which he gave no exact citations.

[37] *Geoffrey de Mandeville* (London, etc., 1892), p. 424: "The Early Charters of St. John's Abbey, Colchester," in *E.H.R.*, xvi, 721–730.

ster. Here it was shown that the whole lot of early Colchester charters, as preserved in the cartulary, consists of scandalous forgeries. Henry's pretended charter of 1119 was very largely based on the foundation charter which Round assigned to 1104, and believed to be genuine, but which, as Dr. Robinson shows, was almost certainly a forgery. Whether forged or genuine, its very existence makes pointless the narrative which introduces the pretended charter of 1119. Moreover, the English customs, together with a long list of other privileges which are set down so carefully in the latter, are all copied from a Westminster source of later date, the so-called Third Charter of Edward the Confessor, itself a notorious forgery.[38] It is, therefore, certain beyond the shadow of a doubt that no charter containing the English words quoted was read and expounded by the king before his council at Rouen in 1119.[39]

The so-called proof of Henry's knowledge of English, therefore, falls to the ground, and there remains no evidence concerning his education and learning beyond the statements of Ordericus Vitalis and William of Malmesbury, from which this investigation set out. What value, then, is to be attached to these statements? Unfortunately, neither of these writers can be regarded as an entirely satisfactory authority for the education and learning of Henry I. Both wrote of him with an extraordi-

[38] J. Armitage Robinson, *Gilbert Crispin, Abbot of Westminster* (Cambridge, 1911), pp. 158–166; cf. John Flete, *The History of Westminster Abbey*, ed. J. A. Robinson (Cambridge, 1909), pp. 13–15. Round apparently accepted Robinson's conclusions; cf. "The Legend of Eudo the Dapifer," in *E.H.R.*, xxxvii, 10, 25. It would be of much interest to determine, if possible, the date of the fabrication of the pretended charter of 1119 and of the narrative which precedes it. Round (*loc. cit.*, p. 25) supposes that Robinson thinks it cannot be earlier than the fourteenth century; but Robinson does not say this. The date of the Third Charter of Edward the Confessor, which the Colchester forger used, has not been determined, though it is known that its phraseology is partly drawn from a letter of Paschal II to Henry I. The present study of Henry's fame for learning would seem to indicate that a forger would hardly have made a feature of his erudition before the time of Matthew Paris.

[39] Another myth concerning Henry's education, which seems to have been started by the Abbé de La Rue (*Essais sur les bardes*, ii, 33), is that he was a pupil of Lanfranc. This was repeated by Wright (*Biog. Brit. Lit.*, Anglo-Norman Period, p. 66), and still further expanded by Palgrave (*History of Normandy and England*, iii, 241; iv, 221), who made him a pupil both of Lanfranc and "Master Achard." La Rue gives no reference, but it is possible that he has confused Henry with William Rufus in the statement of William of Malmesbury (*Gesta Regum*, ii, 360) that Lanfranc brought William up and knighted him ("eum nutrierat et militem fecerat"): cf. Ord. Vital., *Hist. Ecc.*, iii, 267.

nary admiration which may easily have warped their judgment, and, when they wrote, though Henry was still living, the period of his education was long since passed. Ordericus Vitalis was born in 1075, and wrote the passages quoted at various times between 1125 and 1136.[40] William of Malmesbury was born, if one accept the conjecture of Stubbs, about 1095, that is to say, when Henry was a grown man of twenty-seven, and he appears to have written the passage quoted about 1125.[41] Both writers must have depended on hearsay or on inference from known facts concerning Henry's maturity.

The quotation from William of Malmesbury is, upon analysis, somewhat disappointing. Its style is highly artificial and rhetorical. Even the most extravagant admirers have drawn back at the comparison of Henry with the ideal philosopher-king of Plato. No one has ever supposed that William the Conqueror was a literate monarch, and, this being so, it is surely safe to deny that Henry was accustomed to tell his father that an illiterate king was a crowned ass. It is to be noted further that, in spite of the rather pompous references to *scholae litterales* and *mella librorum*, William of Malmesbury acknowledges that Henry's education was scrappily acquired (*tumultuarie libatae*) and that his mastery of letters was not such that he could read aloud, or in the presence of others, without difficulty and embarrassment (*nec multum palam legeret*).[42] Finally, William of Malmesbury gives as the chief reason for Henry's having received an extraordinary education, the fact that he alone among the Conqueror's sons was royally born and designed from the beginning for the kingship. But this argument, whether appearing in William of Malmesbury or elsewhere, was almost certainly devised and projected into the past after Henry had actually attained the kingship. There is no good reason to suppose that any special importance was attached to the royal birth of Henry by his parents or by any one else during the period when his education was being acquired.[43]

[40] Delisle, introduction, in Ord. Vital., *Hist. Ecc.*, i, pp. xxxii, xlvi–xlix; cf. Peter Guilday, *Church Historians* (New York, 1926), pp. 101, 117–118.

[41] Introduction, in *Gesta Regum*, i, pp. xiii–xvii, xliv.

[42] Cf. Le Prévost, in Ord. Vital., *Hist. Ecc.*, iv, 195, note 3.

[43] See, however, the contrary view expressed by Freeman: *Norman Conquest*, iv,

The statements of Ordericus Vitalis are much less sweeping than those of William of Malmesbury. Taken together they seem to mean little more than that Henry's parents saw to it that he received some serious education during the period of his childhood. One can only wonder what Ordericus meant by the pompous statement that Henry was nobly imbued with both natural and doctrinal science ("tam naturali quam doctrinali scientia nobiliter imbutus"). Certainly it has all the flavor of a panegyric. Far more convincing is the simple statement that the king, being literate, read a letter. Yet, even here, an examination of the context is not very reassuring. The letter in question is said to have been from Bertrada de Montfort, the notorious second wife of Philip I of France, though purporting to be from King Philip himself and bearing the royal seal; and it called upon Henry, who was then entertaining Louis the king designate of France at his court, to arrest him and place him in life-long confinement.[44] The tale, which is mentioned by no other writer, is one of the most fantastic to be met with in all the thirteen books of Ordericus Vitalis, and to the present writer it seems evidently legendary. Henry I may have read other letters, but that he ever read one purporting to come from King Philip and urging him to arrest and imprison Philip's own son, the king designate of France, while on a state visit to the English court, seems hardly to be believed.[45]

Taken together the independent testimony of William of Malmesbury and Ordericus Vitalis must be regarded as proof that Henry's education was not neglected by his parents. This is what should be expected under the circumstances. It is known that William and Matilda took some pains about the education of their eldest son, Robert Curthose, the names of

228–229. All recorded arguments in favor of Henry's right to the kingship on the ground of his royal or English birth date from a later period, after he had successfully mounted the throne. Robert Curthose was repeatedly designated as heir and successor to all his father's dominions: C. W. David, *Robert Curthose, Duke of Normandy* (Cambridge, Mass., 1920), pp. 12, 15, 29. When the Conqueror was led to change his plans, doubtless as a result of the disloyalty and proved incompetence of Robert, he supported William Rufus, not Henry, for the English throne.

[44] Ord. Vital., *Hist. Ecc.*, iv, 195–196.

[45] However, the modern biographer of Philip I does appear to take the tale seriously: Augustin Fliche, *Le Règne de Philippe Ier, roi de France* (Paris, 1912), pp. 83–84.

whose tutors appear in charters,[46] and Lanfranc is said by William of Malmesbury to have brought up (*nutrierat*) William Rufus.[47] It is also known that Cecilia, the eldest daughter of William and Matilda, was instructed in grammar and dialectic by the Flemish school-master Arnulf of Choques, who was later to rise to fame as patriarch of Jerusalem.[48] It is therefore clear that the value of education was fully appreciated in the Conqueror's family; and it cannot be doubted that Henry had his opportunity to learn Latin, and that he did acquire a considerable, though by no means a complete, mastery of the language.[49] But it is equally certain that his great fame as a learned king is the product of a later age, not of the age in which he lived.

It is not possible to say with any assurance where Henry received his education, such as it was. "He, no doubt, was educated on the continent," says Davis; [50] but this is pure conjecture. According to the *Brevis Relatio*, which appears to have been written about 1120, and is no bad authority, he was brought up (*nutritum*) in England,[51] but it would be unwise to attach great importance to this statement, since it is used to reinforce the specious argument that Henry was entitled to the throne because of his royal birth.

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[46] David, *Robert Curthose*, p. 6. [47] *Gesta Regum*, ii, 360.

[48] David, *Robert Curthose*, p. 219.

[49] William Stubbs long ago remarked, with his usual discernment, that Henry's "clerkship was probably of a very elementary sort." *Seventeen Lectures on the Study of Mediaeval and Modern History* (Oxford, 1886), p. 119.

[50] *England under the Normans and Angevins*, p. 183. The anonymous continuation of Wace's *Brut*, published by Francisque Michel in 1836 (*Chroniques Anglo-Normandes*, i, 99) represents him as in school in Normandy, but this is a source of no value.

[51] "... cunctique laetati, quod modo regem natum de rege et regina et nutritum in Anglia habere meruissent." *Brevis Relatio*, in *Scriptores Rerum Gestarum Willelmi Conquestoris*, ed. J. A. Giles (London, 1845), p. 12. This statement seems to have been hitherto overlooked.

THE LEGAL SIGNIFICANCE OF THE STATUTE OF PRAEMUNIRE OF 1353

In the autumn of 1353 the Great Council made a decree about the infringement of the jurisdiction of royal courts. That decree has come to be known as "The First Statute of Praemunire." [1] It declared that any subject of the king of England who drew another outside the realm in a plea whereof cognizance pertained to the king, or who sought to nullify a judgment of a royal court by an appeal elsewhere (*en autri court*), should be forewarned by two months to appear before a royal court. On contemporary chroniclers it made no deep impression; none of those whose work is now in print makes mention of its promulgation. But time has lent a perspective in which the Statute of Praemunire has seemed strikingly significant. Modern writers have usually placed it in a political setting as an attack on the jurisdiction claimed by the pope.[2] The impression that the attack began with the statute seems to be widespread.[3] In such a setting it forms a great landmark in the relations of England and the papacy. It is sometimes viewed as an expression of English nationalism against a French pope in the control of a hostile king.[4] Against these views stands the opinion of Professor Pollard [5] who has vigorously denied its nationalism and has as-

[1] *The Statutes of the Realm*, ed. Record Comm. (1810–28), i, 329. Its preamble states that it was made by the Great Council, meeting 23 September. However the petition of the Commons about appeals outside the realm or elsewhere was presented on 7 October: *Rotuli Parliamentorum; ut et Petitiones et Placita in Parliamento*, ed. Record Comm. n.d., ii, 251–252.

[2] F. Makower, *The Constitutional History and Constitution of the Church of England* (London, 1895), p. 42; T. F. Tout, *The History of England from the Accession of Henry III to the Death of Edward III* (London, 1905), pp. 377–378; J. H. Ramsay, *The Genesis of Lancaster* (Oxford, 1913), i, 380; G. Mollat, *Les Papes d'Avignon (1305–1378)* (Paris, 1924), pp. 284–285; K. H. Vickers, *England in the Later Middle Ages* (London, 1914), pp. 228–230; W. S. Holdsworth, *A History of English Law* (London, 1922), i, 585–586.

[3] W. T. Waugh, "The Great Statute of Praemunire," *E.H.R.*, xxxvii, 176, note 3; T. F. Tout, *The Place of the Reign of Edward II in English History* (Manchester, 1914), p. 234.

[4] Vickers, *op. cit.*, pp. 228–230; Holdsworth, *op. cit.*, i, 585.

[5] A. F. Pollard, *The Evolution of Parliament*, 2nd ed. (London, 1926), pp. 202, 205.

serted that the statutes of provisors and *praemunire* were directed as much against the church courts in England as against the Court of Rome. It is well recognized that the actions which the statute comprised were restricted to those of which the king claimed cognizance. After it, as before it, many matters could be legally impleaded at the Court of Rome or in other ecclesiastical courts. For the actions which it comprised, it has been supposed to have declared the penalties of forfeiture and outlawry.[6] Such are in general the views of modern writers.

The historian who sets out to demolish these views must indeed tread warily. Remodelling rather than demolition is usually a sounder procedure. Of the view that the statute of 1353 was directed in part against the ecclesiastical courts in England, the writer will express no definite opinion in this essay.[7] Here appeals to the Court of Rome are the theme. The opposition to such appeals expressed itself in parliament on several occasions in the decade prior to 1353. That opposition ran concurrently with the opposition to papal provisions.[8] It had in all probability political significance. Without, therefore, denying political significance to the Statute of Praemunire, the present essay seeks to readjust the perspective in which the statute has been viewed. It seeks to revise that perspective by directing attention to the legal significance of the statute.

Two theses will be developed. First, the impression that the statute of 1353 began the attack on the jurisdiction of the papacy is erroneous. The appeals at which the statute was

[6] William Stubbs, *The Constitutional History of England* (Oxford, 1878), ii, 428; Tout, *Hist. of England (1216–1377)*, p. 378; Ramsay, *op. cit.*, i, 380. Cf. Makower, *op. cit.*, p. 42; Vickers, *op. cit.*, p. 230.

[7] In order to render this view tenable, actual cases of the application of the statute against appeals to the ecclesiastical courts must be cited. In the fifteenth century such cases may, in all probability, be found: Waugh, *loc. cit.*, pp. 197–200; F. W. Maitland, *Roman Canon Law in the Church of England* (London, 1898), p. 70. In the decade subsequent to 1353 the writer has found no such cases. Until a thorough search is made, judgment must be suspended. It may be remarked, however, that the second thesis of this essay would be confirmed by the acceptance of Professor Pollard's view.

[8] W. W. Capes, *History of the English Church in the Fourteenth and Fifteenth Centuries* (London, 1900), pp. 85 ff.; Stubbs, *op. cit.*, ii, 410; *ibid.*, iii, 329–330; G. Mollat, *La collation des bénéfices ecclésiastiques sous les papes d'Avignon* (Paris, 1921), pp. 252 ff.

aimed had been regularly prohibited for half a century. Against the papal court it asserted no new claims. Second, the statute did not declare penalties against appellants who were convicted; it declared penalties against those who failed to appear on summons. It dealt with mesne process and declared penalties for default. It was aimed especially at those who could not be attached or arrested. In short it was aimed particularly at fugitives from justice. From these theses it will appear that the political significance of the statute of 1353 is overshadowed by its legal significance.

In developing these theses the writer has made use of information contained in printed sources and in the unprinted Rolls of the King's Bench. In the former a judgment rendered in the Common Bench in 1356 has proved particularly important. From the latter has been gathered a multitude of cases. At the end of each of the King's Bench Rolls in the reigns of Edward II and Edward III is a series of membranes bearing the inscription *Rex*. These membranes have proved a fruitful source.

One method of showing that appeals to the papal court were prohibited during the first half of the fourteenth century is the method of collecting actual cases of prohibited appeals. It would be a tedious and probably impossible task to recover all such cases. However a good start may be made with the aid of the Patent, Close, and King's Bench Rolls. Largely from these sources the writer has gathered 110 pertinent cases for the period between 1307 and 1353.[9] The number might be materially increased by a complete search of the King's Bench Rolls.[10] From the collected cases it is amply clear that the great bone of contention between the papacy and the crown was the cognizance of disputes about patronage. Of these disputes in the early fourteenth century, Miss Deeley has recently given an admirable exposition.[11] Although they were by far the

[9] They are listed, with their sources, in the writer's *Studies on the Statute of Praemunire*, a thesis deposited in the Widener Library, Harvard University.

[10] The writer has searched the "Rex" membranes of about a third of the King's Bench Rolls for the period from 1320 to 1353.

[11] A. Deeley, "Papal Provisions and Royal Rights of Patronage in the Early Fourteenth Century," *E.H.R.*, xliii, 497–527. See also, I. S. Leadam and J. F. Baldwin,

most frequent, disputes as to cognizance in other matters also arose. Among them were pleas of chattels and debt, neither testamentary nor matrimonial,[12] of pensions and rents,[13] of spoliations of a free tenement,[14] of trespasses against the king's peace,[15] and of exemptions from episcopal jurisdiction.[16] By reference to actual cases, therefore, it can be shown that in practice the appeal of certain matters to the Court of Rome was prohibited in the first half of the fourteenth century.

The King's Bench Rolls, however, suggest another and more conclusive proof that the appeal of all matters of royal cognizance was prohibited. At least as early as 1320 [17] the King's Bench entertained cases on the writ

> Cum secundum consuetudinem in ipso regno hactenus optentam et approbatam, ullus de eodem regno super aliquibus quorumque cognitio ad regem pertinet, extra idem regnum in causam trahi non debeat . . . in coronae et dignitatis regis laesionem et regis exhaeredationem ac contra consuetudinem praedictam . . .

So far as appeals outside the realm were concerned, the terms of the writ are just as inclusive, no more and no less, as those of the Statute of Praemunire. They both comprise those pleas whereof the king had cognizance. It must be noted too that the writ asserts that it is founded on custom. The use of the

Select Cases Before the King's Council, 1243–1482 (Cambridge, Mass., 1918, Selden Society), pp. lxiv–lxv; Mollat, *La collation*, pp. 228 ff.

[12] *Cal. Close Rolls, 1318–1323*, p. 129. Another case is cited in W. E. Lunt, "William Testa and the Parliament of Carlisle," *E.H.R.*, xli, 347–348 and in J. F. Baldwin, *The King's Council in England during the Middle Ages* (Oxford, 1913), p. 223.

[13] *Cal. Pat. Rolls, 1343–1345*, p. 285; *ibid., 1350–1354*, p. 387; *Rotuli Parlia.*, ii, 193; cf. *post*, p. 71.

[14] *Cal. Pat. Rolls, 1345–1348*, p. 31; *Registrum Johannis de Trillek*, ed. J. Parry (London, 1911–12, Canterbury and York Society), pp. 67–75.

[15] Cf. *post*, p. 67.

[16] *Cal. Pat. Rolls, 1345–1348*, p. 535; *ibid., 1350–1354*, p. 100; *Cal. Pap. Reg.*, iii, 304–305, 388, 391.

[17] The writer has not searched the King's Bench Rolls prior to 1320. The writ issued, however, in November, 1319: T. Rymer, *Foedera* (The Hague, 1739–45), ii, 1, pp. 183–184. A similar writ brought William Testa before the Council in 1310: P.R.O., K.R. Memo. Roll, 4 Edw. II, m. 57; cf. Lunt, *loc. cit.*, pp. 347–348. Prohibitions beginning *Cum secundum consuetudinem in regno nostro optentam, nullus de regno nostro trahi debeat in causam extra idem regnum* . . . issued in 1306: *Memorials of Beverley Minster, The Chapter Act Book*, ed. A. F. Leach (Durham, 1898, 1903, Surtees Society), i, 130, 135; P.R.O., Chancery Miscellanea, Bundle 18, File 4, no. 2.

writ [18] offers conclusive proof that the appeal of matters of royal cognizance was prohibited decades before 1353. Nor was this the only writ on which appellants to the Court of Rome were summoned to the King's Bench to answer for contempt of the royal jurisdiction.

In fine the Statute of Praemunire did not begin the attack on the papal jurisdiction. In practice the law-courts had led the attack for half a century. Against the Court of Rome the statute asserted no new claim.

The second thesis which this essay presents concerns the change in practice that the statute made. The Statute of Praemunire did not declare penalties for appealing to Rome or elsewhere; the statutory declaration of the penalties of *praemunire* against such appellants was a subsequent development. The statute itself modified the mesne process by which such appellants were to be brought to court. From it was made the writ *praemunire facias* by which a royal officer was ordered to give public warning of two months that the accused should appear in a specified royal court. The ineffectiveness of the previous process is apparent in the King's Bench Rolls. Over and over again the person summoned did not appear; and the weapons of the court were not adequate to force him to appear.

[18] Between 1320 and 1324 the following examples of its use may be found.

(a) Abbot of St. Albans vs. Abbot of Walden. P.R.O., Coram rege Rolls, Easter 13 Edw. II, Rex m. 15d. Cf. *post*, p. 67.

(b) William de Bevercotes vs. George de Solario of Ivrea (prebend of Rampton). Coram rege Rolls, Trinity 14 Edw. II, Rex mm. 10 and 10d.; *ibid.*, Mich. 15 Edw. II, Rex mm. 5 and 32; *ibid.*, Hilary 15 Edw. II, Rex m. 5; *ibid.*, Mich. 17 Edw. II, Rex mm. 7, 21, 26d., and 30d.; *ibid.*, Mich. 18 Edw. II, Rex m. 25d. Cf. Deeley, *loc. cit.*, p. 517.

(c) Nicholas of Nottingham vs. Hugo de Faleys (prebend of Carlton cum Thurlby). Coram rege Rolls, Mich. 15 Edw. II, Rex m. 2d. Cf. *post*, p. 67.

(d) Geoffrey of Wellford vs. Robert of Maidstone. Coram rege Rolls, Hilary 15 Edw. II, Rex m. 8.

(e) D. and C. of Wells vs. William of Yatton. Coram rege Rolls, Mich. 17 Edw. II, Rex m. 24d.

(f) Bp. of Exeter vs. William of Langton. *Ibid.*, Rex m. 23.

(g) John of Bruyton vs. D. of Wells (Stogumber case). *Ibid.*, Trinity 17 Edw. II, Rex mm. 1 and 1d. Cf. *post*, p. 65.

(h) Robert Baldock vs. Gaillard de Mota (prebend of Milton). Coram rege Rolls, Mich. 17 Edw. II, Rex m. 21. Cf. *post*, pp. 64, 66.

(i) Walter, parson of Holkham vs. Richard, monk of Viterbo. Coram rege Rolls, Mich. 18 Edw. II, Rex m. 21.

(j) Bedwin vs. Gaetano (treasurership of York). Coram rege Rolls, Mich. 15 Edw. II, Rex m. 4d.

The change which the statute made will be clear from comparisons of the mesne process before with the mesne process after the making of the statute.

In those actions which the Statute of Praemunire affected, the scheme of mesne process [19] which the King's Bench used between 1320 and 1340 was ordinarily something like the following. The accused was summoned to appear on the day on which the original writ was returnable. For his appearance a sheriff was ordered to attach him.[20] One of three situations might confront the sheriff. First, the accused, clerk or layman, held a lay fee through which he could be distrained. Second, the accused, a clerk, held no lay fee but possessed an ecclesiastical benefice. Third, the accused, clerk or layman, held neither a benefice nor a lay fee, and could not be found. A different process was applied in each of these three situations.

In the first situation the accused was attached to appear by the sheriff. He was ordinarily attached through pledges; occasionally he was attached by the body. If he did not come on the first attachment, his pledges were amerced and the sheriff was ordered to distrain him through all his lands and chattels and to have him in court at another specified day. If on that day he did not come, his pledges were again amerced; the sheriff was ordered to distrain him again through his lands and chattels, to answer to the king for their fruits, and to have him in court at another specified day. If on the third day he did not come, the fruits of his lands went to the king; his pledges were amerced; and the sheriff was ordered to distrain him again and to have him in court at another day. "And so," says Fleta, "attachment by means of the Great Distress runs *in infinitum* in personal civil actions until the person summoned has appeared or is distrained." [21] No *capias* issued ordering the

[19] For mesne process in the late thirteenth century see Pollock and Maitland, *The History of English Law* (Cambridge, 1895), ii, 591–592; J. Reeves, *History of English Law* (ed. 1845), ii, 319–320; Holdsworth, *op. cit.*, iii, 674–675. The scheme outlined in this essay is constructed from cases in the King's Bench Rolls, of which examples will be given later.

[20] For the writ of attachment see Sir John C. Fox, *History of Contempt of Court* (Oxford, 1927), pp. 56–79.

[21] *Fleta* (London, 1647), p. 144, Bk. II, c. 65. Cf. John C. Fox, "Process of Imprisonment at Common Law," *Law Quarterly Review*, v, 39.

sheriff to imprison the accused until a future court day, although a writ directing the sheriff to have his body (*habeas corpus*) in court on that day issued. Under these circumstances the accused was not outlawed for non-appearance.

The second situation that might arise was that in which the accused was a clerk who had no lay fee but who held an ecclesiastical benefice. If such were the case, the bishop in whose diocese the clerk was beneficed was sent a *venire facias*. If the bishop executed the *venire facias* and the clerk did not come, the fruits of the clerk's benefice were sequestrated. If the bishop were remiss in executing the *venire facias*, the sheriff was ordered to attach the bishop to appear and to have his clerk with him. Then the process ran against the bishop as well as against the clerk.

The third situation was that in which the accused, clerk or layman, had neither benefice nor lay fee, and could not be found. If the sheriff made such a return to the first writ of attachment, the *capias* issued. The sheriff was ordered to take the accused by the body wherever he was found and to keep him safely until the next court day. If at that day the sheriff returned that the accused could not be found, another *capias* issued. Likewise after the third default the *capias* issued, and this process usually continued indefinitely. Sometimes, however, after the sheriff had returned that the accused could not be found, he was ordered to put him in exigent until he was outlawed. On five days the sheriff in the county court publicly demanded, or exacted, the accused to appear; if at the fifth day, he did not appear, he was outlawed. Such was in general the scheme of mesne process between 1320 and 1340 in actions with which the Statute of Praemunire was to deal. The application of the scheme may be seen in specific cases.

Two cases will serve to exemplify the mesne process in the first situation outlined above. We shall refer to these cases as the Aylesbury case and the Stogumber case. In the Aylesbury case, the king in 1320 had presented Robert of Baldock, keeper of the privy seal, to the undivided prebend of Aylesbury in the church of Lincoln.[22] Since 1290, however, the prebend of Ayles-

[22] *Cal. Pat. Rolls, 1317–1321*, p. 453.

bury had, with papal consent but without royal sanction, been divided into two portions, the prebend of Aylesbury proper and the prebend of Milton.[23] In 1320 Richard of Havering claimed the prebend of Aylesbury proper [24] and Cardinal Gaillard de la Mothe claimed the prebend of Milton.[25] The claimants and their abettors appealed to the Court of Rome against the presentation of Baldock. For making such appeals Havering and his abettors were to be attached by the sheriff of Buckingham to appear before the King's Bench.[26] Two of the abettors, John the Draper and John of Claydon, were attached by pledges to appear at the Quinzaine of St. Michael 1321. They did not come. The pledges were amerced; and the sheriff was ordered to distrain them through their lands and chattels, and to have them in court at the Quinzaine of St. Martin.[27] On that day they did not come; the sheriff reported that they had been distrained for 6*d.* and 5*d.* respectively. The pledges were amerced; and the sheriff was ordered to distrain them again and to have them in court in the Hilary term.[28] In the Hilary term they did not come. The sheriff reported that Draper had been distrained for 10*d.* and that Claydon could not be found. Draper's pledges were amerced and the sheriff was ordered to have him in court in the Easter term. A *capias* issued for Claydon.[29] Although summoned under penalty of distraint, Draper did not appear for the next four terms. For the Michaelmas term the sheriff made no report; for the other three terms he reported that Draper had been distrained. With each default Draper's pledges were amerced. In the Hilary term of 1323 the sheriff was ordered to distrain Draper for the Easter term.[30] Thereafter the King's Bench Rolls are silent as to Draper's fate.

In the Stogumber case, the dean of Wells and four others were accused of having cited a canon of Wells outside the realm

[23] *Cal. Pap. Reg.*, ii, 214–215.

[24] John LeNeve, *Fasti Ecclesiae Anglicanae* (Oxford, 1854), ii, 96.

[25] *Cal. Pap. Reg.*, ii, 104; *Cal. Pat. Rolls, 1317–1321*, p. 152.

[26] Cf. *post*, p. 66.

[27] Coram rege Rolls, Mich. 15 Edw. II, Rex m. 11.

[28] *Ibid.*, Rex m. 36. [29] *Ibid.*, Hilary 15 Edw. II, Rex m. 7d.

[30] *Ibid.*, Easter 15 Edw. II, Rex m. 5; *ibid.*, Trinity 15 Edw. II, Rex m. 11; *ibid.*, Mich. 16 Edw. II, Rex m. 16; *ibid.*, Hilary 16 Edw. II, Rex m. 6d.

to answer about the farm of the "villa" of Stogumber and other matters whereof cognizance pertained to the king. On the writ *cum secundum consuetudinem* they were attached by pledges to appear in the King's Bench during the Trinity term of 1324. They did not come. Their pledges were amerced; and the sheriff of Somerset was ordered to distrain them and to have them in court at the Quinzaine of St. John the Baptist. On that day they did not come. The sheriff reported that one of them had been distrained for 10*d.*; and the other three, exclusive of the dean, had been distrained for 6*d.* each. Their pledges were amerced. The sheriff was ordered to distrain them again and to have them in court at the Octaves of St. Michael.[31] On that day they did not come. The sheriff reported that the four had been distrained. Their pledges were amerced and the sheriff was ordered to distrain them for the Octaves of St. Hilary.[32] They were then essoined until the Quinzaine of Holy Trinity. At that time one of them came, denied his guilt, and placed himself on the country-side. For him a jury was summoned for the Octaves of St. Michael. The other three did not come; the sheriff was ordered to distrain them for the Octaves of St. Michael.[33] On that day they did not come. The sheriff reported that they had been distrained. Their pledges were amerced and the sheriff was ordered to distrain them for the Octaves of St. Hilary.[34] On that day they did not come. The sheriff reported that they had been distrained. Their pledges were amerced and the sheriff was ordered to distrain them for the Quinzaine of Easter.[35] On that day they did not come. The sheriff reported that they had been distrained. Their pledges were amerced and the sheriff was ordered to distrain them for the Octaves of St. Michael.[36] No further reference to them has been found on the King's Bench Rolls; still it seems clear that distress was an ineffective process for getting the accused into court. As for the dean of

[31] Coram rege Rolls, Trinity 17 Edw. II, Rex mm. 1 and 19.
[32] *Ibid.*, Mich. 18 Edw. II, Rex m. 26.
[33] *Ibid.*, Trinity 18 Edw. II, Rex m. 17.
[34] *Ibid.*, Mich. 19 Edw. II, Rex m. 19d.
[35] *Ibid.*, Hilary 19 Edw. II, Rex m. 13.
[36] *Ibid.*, Easter 19 Edw. II, Rex m. 8d.

Wells, the process against him involved the bailiff of the liberty of Bath and Wells, who made a false return. For some terms a *capias* issued for the bailiff and distress ran against the dean.[37]

The situation in which the accused had no lay fee but held an ecclesiastical benefice may be exemplified by the following instances. In the Aylesbury case [38] the sheriff of Buckingham was ordered to attach Richard of Havering to appear in the King's Bench at the Octaves of St. Michael 1321. The sheriff returned that Havering was a clerk, beneficed in the diocese of Salisbury, and had no lay fee in his county. A *venire facias* for the Quinzaine of St. Martin was sent to the bishop of Salisbury.[39] The bishop did nothing; and Havering did not appear. The sheriff of Wiltshire was commanded to attach the bishop of Salisbury through pledges to appear along with Havering in the Hilary term.[40] But the sheriff did nothing; and neither the bishop nor Havering appeared. The sheriff was commanded to attach the bishop for the Easter term.[41]

In the same case the sheriff of Buckingham was ordered to attach Gilbert de la Bruera to be in the King's Bench at the Quinzaine of St. Michael 1321. The sheriff returned that he could not be found. Later it was shown that Bruera was a clerk, beneficed in the dioceses of Lincoln and of Coventry and Lichfield. *Venire facias* writs issued to the bishop of Lincoln and to the custodian of the spiritualities of Coventry and Lichfield.[42] Bruera did not come at the Quinzaine of Hilary 1322. The custodian of Coventry and Lichfield reported that he had been cited. None the less, the sheriff of Warwick was commanded to attach the custodian to be in court at the Quinzaine of Easter and to have Bruera with him.[43] A similar process was applied against two other adherents of Havering who were clerks beneficed in the diocese of Lincoln.[44]

[37] *Ibid.*, Trinity 17 Edw. II Rex m. 17d.; *ibid.*, Mich. 18 Edw. II, Rex m. 18d.; *ibid.*, m. 43d.; *ibid.*, Hilary 18 Edw. II, Rex m. 23; *ibid.*, Easter 18 Edw. II, Rex m. 13; *ibid.*, Trinity 18 Edw. II, Rex m. 14; *ibid.*, Mich. 19 Edw. II, Rex m. 25d.

[38] Cf. *ante*, pp. 63–64.

[39] Coram rege Rolls, Mich. 15 Edw. II, Rex m. 11.

[40] *Ibid.*, Rex m. 36.

[41] *Ibid.*, Hilary 15 Edw. II, Rex m. 7d.

[42] *Ibid.*, Mich. 15 Edw. II, Rex mm. 13 and 36.

[43] *Ibid.*, Hilary 15 Edw. II, Rex m. 2.

[44] *Ibid.*, Mich. 15 Edw. II, Rex m. 36; *ibid.*, Hilary 15 Edw. II, Rex m. 7d. The accused were Edmund of St. Ledgers and Adam Meynel.

Another example of the use of the *venire facias* in the second situation described on page 63 is afforded in the Carlton cum Thurlby case. The king had presented Nicholas of Nottingham to the prebend of Carlton cum Thurlby in the church of Lincoln. Contrary to a prohibition and to approved custom, Hugo de Faleys cited Nottingham to appear outside the realm to answer as to his right to the prebend. A sheriff was ordered to cause Faleys to appear in the King's Bench in the Michaelmas term of 1321. He did not come. The sheriff returned that he was a clerk and held no lay fee. A *venire facias* issued to the bishop of Lincoln. The bishop did nothing, despite the issuance of *venire facias* writs to him for four terms.[45]

Mesne process, when the accused had neither benefice nor lay fee and could not be found, may be seen in practice in the following case. The abbot of Walden, Alexander of Barney, John of Slindon, John de la Lee, and two others were charged with having caused the abbot of St. Albans and others to be cited to the Court of Rome in a plea of trespass against the king's peace. A prohibition against answering outside the realm issued to the abbot of St. Albans on 26 March, 1320.[46] The accused were essoined in the King's Bench until the Quinzaine of Easter 1320. On that day the king's attorney brought in a *cum secundum consuetudinem* writ against them. The abbot of Walden had been attached for that day; a *capias* had issued against the others. They did not come. The pledges of the abbot were amerced; and another *capias* issued against the others. The sheriff returned that they could not be found in his bailiwick and that they had nothing through which they could be distrained. Again the *capias* issued against them for the Quinzaine of Holy Trinity.[47] The sheriff was ordered to distrain the abbot of Walden. At the Trinity term the abbot of Walden came, denied, and placed himself on the country. The king's attorney asked damages of 1000 marks for contempt of

[45] Coram rege Rolls, Mich. 15 Edw. II, Rex m. 2d.; *ibid.*, Trinity 15 Edw. II, Rex m. 4d.; *ibid.*, Mich. 16 Edw. II, Rex m. 3.

[46] *Cal. Close Rolls, 1318–1323*, p. 226. Such a prohibition issued frequently to persons cited outside the realm; it might indeed be sought by them: *Cal. Chancery Warrants, 1244–1326*, p. 522.

[47] Coram rege Rolls, Easter 13 Edw. II, Rex m. 15d.

the king. The jury was summoned for the Michaelmas term. In the Michaelmas term John of Slindon came; later in the same term the jury came. The jury said that Slindon was in no wise guilty; but that Alexander of Barney and a stranger, whose name they did not know, had made an inquiry at the request of the abbot of Walden about an assault on two of the accused, and, finding that the abbot of St. Albans and others were implicated in the assault, they had cited them to appear at the Court of Rome. Wherefore the abbot of Walden was ordered to be imprisoned until he paid a fine to the king. As to the others of the accused the sheriff returned that he could not find them.[48] Alexander of Barney and John de la Lee were put in exigent to be outlawed. The sheriff made them exigent first on 25 September, 1320; and on four other days the sheriff publicly demanded that they should appear. But they did not come. In the Trinity term of 1321 the sheriff returned that they had been made exigent, had not appeared and therefore had been outlawed. The sheriff was ordered to inquire what goods they had in his county.[49]

The examples [50] which have been cited so far come from the third and fourth decades of the fourteenth century. They show that the process was slow and that the extreme penalty for non-appearance imposed on those who had something through which they could be distrained was distress and not forfeiture. In the next decade changes in the process appear. The changes may have been an attempt to meet the extended use of provisions by Clement VI.[51] By them the writ of "arrest" came to be part of the normal process.[52] A royal officer was ordered

[48] Coram rege Rolls, Trinity 13 Edw. II, Rex m. 15d.

[49] *Ibid.*, Trinity 14 Edw. II, Rex m. 2d.; *ibid.*, Mich. 15 Edw. II, Rex m. 16d.

[50] Other examples of the use of the *capias* may be found in the Aylesbury case (*ibid.*, mm. 11 and 36; *ibid.*, Hilary 15 Edw. II, Rex m. 7d.), the Archdeaconry of Bedford case (*ibid.*, Trinity 14 Edw. II, Rex mm. 17 and 10d.), and the Bexhill case (*ibid.*, 12 Edw. III, Rex m. 30d.)

[51] Cf. *ante*, p. 58.

[52] The writ of "arrest" issued in 1311 against all who attempted to interfere with the royal presentee's peaceful possession of the prebend of North Newbald: *Cal. Pat. Rolls, 1307–1313*, p. 387. He had already been disturbed by summonses to the Court of Rome: *Cal. Chancery Warrants, 1244–1326*, p. 323. In 1314 and 1315 it issued against all who, by citations, appeals or otherwise, disturbed several royal presentees: *Cal. Pat. Rolls, 1313–1317*, p. 197. The writer has found no evidence that these cases

to arrest the accused so that he should appear in court. The arrest was in essence attachment by the body.[53] If the accused who had been arrested found pledges, mainprise might be substituted for imprisonment.[54] If the writ of "arrest" did not produce the accused, he was put in exigent to be outlawed. The cumbersome process of the previous decades was accelerated by the writ of "arrest," when the arrest could be made.

Objection was made to the use of the writ of "arrest" in the King's Bench in 1341. The defendant had appealed to the Court of Arches contrary to prohibition after the king had recovered the right of presentation to the church. The sheriff received and executed a writ to attach him by the body. Thorpe, for the defendant, took exception to the writ on the ground that it was contrary to law to have attached the defendant by the body. He should have been attached through pledges. Scot, one of the justices, asserted that he had spoken in Chancery about this matter and had been told that it was Chancery's custom to grant writs of attachment by the body against those who attempted to annul the king's right after he had received judgment.[55]

Although in the decade prior to 1353 the writ of "arrest" usually ordered the production of the accused before the Council, we frequently find him appearing in the King's Bench.[56] This is not to be marvelled at, for Professor Baldwin has pointed

had already been appealed to the Court of Rome. On the other hand, when the sheriff of York arrested a papal provisor for impeding the collation of a royal presentee to the prebend of South Newbald, he was ordered to release the provisor and not to re-arrest him "until cause why he ought to be arrested is made evident to the king": *Cal. Pat. Rolls, 1307–1313*, p. 213. Moreover the enrolment of a writ of "arrest," dated 21 April, 1321, against all persons interfering with Baldock's possession of the prebend of Aylesbury, was vacated, "the king being unwilling to make use of the same at present": *ibid., 1317–1321*, p. 578. The writer is not certain that appeal had already been made to the Court of Rome; such an appeal had been made before 4 July, 1321: Rymer, *Foedera*, ii, 2, p. 21. In 1323 the writ of "arrest" issued against all who molested three royal presentees in possession of their benefices: *Cal. Pat. Rolls, 1321–1324*, p. 352.

[53] Fox, *Contempt of Court*, p. 64.

[54] Leadam and Baldwin, *Select Cases*, p. xl; cf. *post*, pp. 72, 73. *Cal. Close Rolls, 1343–1346*, p. 672; *ibid., 1349–1354*, pp. 263, 277.

[55] *Year Books*, ed. L. O. Pike (Rolls Series), 15 Edw. III, p. 266.

[56] Cf. *post*, pp. 71, 76; *Cal. Pat. Rolls, 1345–1348*, p. 108 and Coram rege Rolls, Trinity 26 Edw. III, Rex m. 39d.; *Cal. Pat. Rolls, 1345–1348*, p. 229 and *ibid., 1348–1350*, p. 183.

out that by 1350 the Council and the King's Bench were not mutually exclusive bodies.[57] In the execution of this writ there is striking evidence of their interrelation. If to the writ of "arrest" it was returned that the accused could not be found, exigency and outlawry followed.

The writ of "arrest" appears frequently on the Patent Rolls;[58] it is referred to also on the Rolls of Parliament. In 1343 the king granted the petition of the Commons that the writ of "arrest" should issue against all persons who made appeals against the patrons of benefices or their presentees, or who pursued in any court where something to the prejudice of the king or his barons might be done.[59] In the next year the Commons petitioned that, since no sure penalty had been yet ordained against those who pursued in the Court of Rome to weaken or annul judgments of the king's courts, remedy be made. They prayed that the penalty of perpetual imprisonment or exile be imposed on those convicted of making such suits, and that if they be not found exigency and outlawry run against them. Machinery for the inquiry and indictment in such cases was also requested. The petition was granted [60] and the promise was made that the ordinance should be made into a statute which would last perpetually. The statute was not made; and in 1347 the Commons called attention to this fact.[61] Still the statute was not made.

When in the parliament of 1351 the Commons petitioned for remedy against those who sued in the Court of Rome to defeat the execution of judgments rendered in the king's courts, they were told that suitable remedy was available for those who wished to sue for it.[62] In the same parliament the Statute of Provisors was made.[63] It declared penalties against those who disturbed the presentees of the king or of ecclesiastical patrons

[57] Holdsworth, *op. cit.*, i, 209–210; Baldwin, *King's Council*, p. 310. Possibly this may be due to the fact that the Council enrolled pleas in the King's Bench Rolls: *ibid.*, p. 386.

[58] *Cal. Pat. Rolls, 1340–1343*, pp. 571, 593; *ibid., 1343–1345*, pp. 84, 87, 399; *ibid., 1345–1348*, pp. 110, 114–115, 170, 171, 229; *ibid., 1350–1354*, pp. 24, 273, 277–278.

[59] *Rotuli Parlia.*, ii, 145. [60] *Ibid.*, ii, 153–154.

[61] *Ibid.*, ii, 172–173. [62] *Ibid.*, ii, 228.

[63] *Ibid.*, ii, 232–233; *Statutes of the Realm*, i, 316.

by papal provisions. If such disturbers defaulted, the exigent and outlawry should run against them. In sum, between 1343 and 1353 the king in parliament had authorized the use of the writ of "arrest" for the production in court of certain impugners of the royal jurisdiction and the use of the exigent and outlawry against those who failed to appear.

Illustrations of the practice in this decade may be found in the Patent Rolls. The late prior of St. Oswald's, Nostell, had recovered a rent of 36 marks against the late parson of Lythe by a judgment of the Common Bench. The present parson, John of Bolton, sought to nullify that judgment by an appeal to the Court of Rome.[64] On 26 January, 1345, a commission was appointed to arrest Bolton and bring him before the Council.[65] On the following 10 March another commission was appointed for the same purpose.[66] The matter was impleaded in the King's Bench in the Trinity term of 1345. Bolton did not appear; he was put in exigent for the following Hilary term and for non-appearance he was outlawed. Bolton and the prior came to an agreement between themselves. In view of that agreement and the good service of Bolton beyond seas, and for a fine of 100*s*., Bolton was pardoned his outlawry on 6 November, 1346. Five days later he was pardoned the payment of the fine.[67]

In 1347 a commission was appointed to find the names of those who prosecuted appeals in derogation of the judgment of the Common Bench by which Roger of Blaykeston had recovered the right to present to the prebend of Thorpe in Howden.[68] For such prosecution at the Court of Rome Robert of Tresk was to be attached to answer in the King's Bench. Before he was put in exigent, three writs of *capias* issued. For non-appearance he was outlawed.[69]

One of the most recalcitrant of the appellants to the Court of

[64] *Cal. Pat. Rolls, 1343–1345*, pp. 500–501.

[65] *Ibid.*, p. 490; cf. *ante*, p. 69, note 56. [66] *Cal. Pat. Rolls, 1343–1345*, pp. 500–501.

[67] *Ibid., 1345–1348*, pp. 212, 215; Coram rege Rolls, Trinity 19 Edw. III, m. 50; *ibid.*, Hilary 20 Edw. III, Rex m. 31d.

[68] *Cal. Pat. Rolls, 1345–1348*, p. 317.

[69] *Ibid., 1348–1350*, p. 136; *Cal. Pap. Reg.*, iii, 230; Controlment Roll, 19 Edw. III, m. 68.

Rome was Nicholas of Heth. Claiming rights by papal provisions he disturbed several royal presentees to benefices.[70] In one case he sought to obtain the church of Hodenet in Shropshire after the king had recovered the right of presentation. In derogation of that judgment, Heth had appealed to the Court of Rome. An order to attach him by the body and bring him before the Council issued on 28 February, 1349.[71] He was commanded to return from the Court of Rome and appear before the Council before Christmas 1349. When he failed to return the Council ordered the bishops in whose dioceses he was beneficed to sequestrate the fruits of his benefices. He was put in exigent; and if he returned to England, he was to be attached by the body and imprisoned at the king's will.[72] When he found pledges who promised to have him before the king in the Michaelmas term of 1350, the execution of the exigents and the sequestrations was superseded.[73] When he made a fine with the king for 100 marks and promised to behave well in the future, the processes against him in the King's Bench were stopped.[74] But the fine was not paid by 24 October, 1351. He was outlawed for his contempts; and the sheriffs of London, who had arrested him on another charge, were ordered to hand him over to the constable of the Tower. He was to be imprisoned there until he paid the fine.[75] In November, 1351, Heth appeared before the king in Chancery and promised not to sue in the Court of Rome or elsewhere for his benefices.[76] He was consequently pardoned his outlawry and released from prison.[77] Almost immediately he seems to have gone to the church of Hodenet and to have attempted to remove the royal presentee.[78] Thereupon an order issued to attach him by the body and bring him before the Council.[79] The pardon for his outlawry was revoked; [80] and a commission was charged to

[70] *Cal. Pat. Rolls, 1350–1354*, p. 189.

[71] *Ibid., 1348–1350*, pp. 310, 313; *Cal. Pap. Reg.*, iii, 184; *Cal. Pat. Rolls, 1343–1345*, p. 557.

[72] *Calendar of the Fine Rolls preserved in the Public Record Office, 1347–1356*, p. 199; *Registrum Johannis de Trillek*, pp. 326–329.

[73] *Ibid.*, p. 332; *Cal. Close Rolls, 1349–1354*, p. 263.

[74] *Ibid.*, p. 249. [75] *Ibid.*, p. 328. [76] *Cal. Pat. Rolls, 1350–1354*, p. 189.

[77] *Ibid.*, pp. 178, 224. [78] *Ibid.*, p. 189. [79] *Ibid.*, p. 206. [80] *Ibid.*, p. 198.

arrest him.[81] Apparently Heth escaped abroad. On 20 May, 1354, he was commanded to come to England under pain of forfeiture to inform the king and his Council upon certain things which would be laid before him.[82] Apparently he came; he was imprisoned in Nottingham castle before the end of 1356. When he found a pledge to have him before the king in Chancery in the Hilary term of 1357, he was released from prison.[83] Under warrant of the privy seal, Chancery issued, on 15 February, 1357, a ratification of Heth's estate in the church of Hodenet, as well as in other benefices.[84] By the following 6 July, he had made a fine of £200 before the King's Bench for his contempts; [85] and by 18 November, he had found pledges that he would not draw any of the king's subjects outside the realm in pleas. He was pardoned 100 marks of the fine and granted permission to pay the rest in instalments.[86] He was given the receivership of his sequestrated benefices until he had paid the fine. After the fine had been paid, their sequestration was to be relaxed.[87] At the request of certain of the king's advisers, Heth was granted license, on 2 May, 1358, to sue within or without the realm against those who despoiled him of his benefices, tithes, or other fruits, provided that he attempt nothing to the prejudice of the king or his crown or to the injury of the law of England.[88] He was allowed to sue, in other words, as to spoliation, not as to right of patronage. Apparently he decided to sue at the Court of Rome, for he was going abroad in May, 1358.[89] He occupied the church of Hodenet in 1361, when the report of his death caused the king to grant it to another.[90] The report proved false.[91]

Such examples illustrate mesne process in the decade prior to 1353 in actions which the Statute of Praemunire was to com-

[81] *Ibid.*, p. 207. [82] *Cal. Close Rolls, 1354–1360*, p. 78.
[83] *Ibid.*, p. 334. [84] *Cal. Pat. Rolls, 1354–1358*, p. 513.
[85] *Registrum Johannis de Trillek*, p. 354.
[86] *Cal. Pat. Rolls, 1354–1358*, p. 635.
[87] *Registrum Johannis de Trillek*, p. 356.
[88] *Cal. Pat. Rolls, 1358–1361*, p. 37.
[89] *Ibid.*, p. 52. [90] *Ibid., 1361–1364*, p. 134.
[91] He died in 1390; and his portion of Overhall in the church of Ledbury, over which he had had much litigation, was given to another: *Registrum Johannis Trefnant*, ed. W. W. Capes (London, 1916, Canterbury and York Society), pp. 64, 174.

prise. Previously the writ of attachment by pledges had not proved effective. In consequence the writ of "arrest" was normally substituted for the writ of attachment by pledges. Against those who could not be arrested, the writ of "arrest" was ineffective. For persistent default, the accused was put in exigent and outlawed.

In the autumn of 1353 the Statute of Praemunire was made. It provided that those persons, ecclesiastic or lay, who drew a matter of royal cognizance outside the realm or elsewhere should be given a public warning of two months to appear before one of several courts. If they did not come on the day for which they had been forewarned, they and their abettors should be put outside the king's protection and their lands, goods, and chattels forfeited to the king. The *capias* should issue against them. If to the *capias* it be returned that they could not be found, they should be put in exigent to be outlawed. The statute was concerned with defaulters and modified mesne process. It was directed particularly against fugitives from justice.

This interpretation follows from a careful reading of the statute. It is also the interpretation made in 1356 by Justice Green in the Common Bench. On a writ of attachment on a prohibition the king sued against the prior of W. for having appealed to the Court of Rome in derogation of a judgment of a royal court. The prior came and was found guilty. The king's attorney asked judgment on the Statute of Praemunire. Green declared that he could not have it. He had sued on a writ of attachment on a prohibition, which was a suit at Common Law and not on the statute. Judgment was given on the statute only in case the person against whom the suit was made did not come; and in this case the prior came. Green went on to say that in his opinion the statute was intended against those who had nothing through which they could be justiced, against those who were wayfarers, passing to and fro; and in this case the prior had remained in the realm and appeared. Hence judgment could not be given against the prior on the statute. With this opinion *Fish.* disagreed on the ground that the prior had committed a great trespass and contempt, and although

the statute did not by express word give judgment except in case the party defaulted, still it seemed that, if he came and was attainted, judgment should be given on the statute. Green replied, "I say no. It was made only for those who do not want to be justiced and are fugitives. . . ." It was then agreed that the prior should be taken.[92]

Under the statute, then, mesne process consisted of (1) a forewarning to appear, (2) forfeiture and a *capias*, and (3) the exigent and outlawry. It differed from the previous process in the substitution of the writ of "forewarning" for the writ of "arrest." Further it declared the penalty of forfeiture against those who did not answer to the writ of "forewarning." For the forewarning the writ *praemunire facias* was devised and in time supplied a new name for the statute out of which it had grown. A Latin translation of the French of the statute served as the preamble of the writ.[93]

The writ *praemunire facias* did not, however, completely supplant the writ of "arrest." In practice the writ of "arrest" continued to be used against those who could be arrested; and the action of arrest or attachment on a prohibition continued as a Common Law action. If there was likelihood that the accused could not be arrested the writ *praemunire facias* issued. This interpretation of the relationship between the two writs is confirmed by the opinion of Justice Green, by the kindred statutes of 1365 and 1393,[94] and by actual cases of their use.

In 1361 William of Norwich was provided by the pope to the church of Stanhope in the diocese of Durham.[95] The king claimed and recovered the right to present in the King's Bench. On 3 February, 1363, a prohibition against proceedings in derogation of this judgment issued; simultaneously a writ of "arrest" issued. All persons who prosecuted appeals were to

[92] *Year Books, Les Reports des Cases en Ley* (London, 1679), 30 Edw. III, p. 11. Cf. Anthony Fitz-Herbert, *Natura Brevium* (Dublin, 1793), p. 101. On the meaning of the phrase "the prior should be taken," see Fox, *Contempt of Court*, pp. 138, 167.

[93] Coram rege Rolls, Trinity 34 Edw. III, Rex m. 30 and schedule. Cf. W. Rastell, *A Collection of Entries* (London, 1670), pp. 466–467.

[94] *Statutes of the Realm*, i, 385; *ibid.*, ii, 85 ff.

[95] *Calendar of Entries in the Papal Registers, Petitions to the Pope, 1342–1419*, ed. W. H. Bliss (London, 1896), pp. 321, 375.

be brought before the Council.[96] On a *praemunire facias* William of Norwich and others were forewarned to be before the King's Bench during the Easter term of 1363. They came, but no one came to prosecute them; hence they went *sine die*.[97]

In 1360 a *praemunire facias* issued in a dispute about the right of presentation to the prebend of Northwell Overhall in the church of St. Mary's, Southwell. The king had recovered the right to present and had granted the prebend to William of Northwell.[98] By a papal grant [99] Thomas of Ikham claimed the prebend, and with four abettors sought to carry the matter to the Court of Rome for another examination. In consequence the sheriff of Nottingham received a *praemunire facias* dated 1 May, 1360, commanding him to forewarn them to be before the King's Bench on 24 June, 1360. On that day the sheriff returned that he had forewarned them on 14 May. Apparently they did not come and the *capias* issued against them for a fortnight. Then two of the abettors came and were given a day in the Michaelmas term. Ikham and the two other abettors did not come; they were placed outside the protection of the king and the sheriff was ordered to put them in exigent. Ikham was afterwards outlawed. He was in 1366 pardoned his outlawry. Pledges went bail to the amount of £100 that Ikham would do nothing to the prejudice of the king nor of the law.[100]

William of Lynn, the bishop of Chichester, was beyond seas from 1363 to 1367.[101] At the Court of Rome he complained that Richard, earl of Arundel, and several others had done him injuries. While a suit between them was pending in the King's Bench, the bishop procured the personal citation of the earl and others to appear at the Court of Rome on 1 October, 1364.[102] At the king's request, the pope, on 30 September, 1364, revoked the personal citation on condition that proctors of the earl

[96] *Cal. Pat. Rolls, 1361–1364*, p. 358.

[97] Coram rege Rolls, Easter 37 Edw. III, Rex m. 19.

[98] *Cal. Pat. Rolls, 1330–1334*, pp. 478, 486; *Cal. Pap. Reg.*, ii, 528–529; *ibid.*, iii, 86; *Cal. Pat. Rolls, 1338–1340*, p. 463; Le Neve, *Fasti*, iii, 437.

[99] *Cal. Pap. Reg., Petitions, 1342–1419*, p. 300.

[100] Coram rege Rolls, Trinity 34 Edw. III, Rex m. 30 and schedule; *Cal. Pat. Rolls, 1364–1367*, p. 245.

[101] *Ibid., 1361–1364*, p. 425; *ibid., 1364–1367*, p. 41; *Cal. Close Rolls, 1364–1368*, p. 321.

[102] *Cal. Pat. Rolls, 1364–1367*, p. 420.

and the others appear within a year. At the same time he ordered the abbot of St. Bavon's, Ghent, to go to England with powers to bring an agreement between the parties.[103] In the Easter term of 1365 a *praemunire facias* against the bishop was returned to the Common Bench. The bishop's attorney declared that the sheriff had not given proper forewarning, as provided for in the statute of 1353. The king's attorney rejoined that the sheriff had returned *praemunire feci* and that it was the intent of the statute that the warning should apply to those outside the realm. Later the king's attorney alleged from the Second Statute of Provisors that the accused should have come in his own person. The bishop's attorney objected that this was not a statute.[104] However, at the Trinity term judgment was given that the bishop should be put outside the king's protection and that his lands, goods, and chattels should be forfeited to the king. The court wished to consider whether or not the *capias* should issue against him.[105] At the king's command the bishop returned from the Court of Rome in 1367, and along with the earl submitted himself to the judgment of the king. The king pardoned the bishop his contempt and restored his temporalties and goods to him on 4 July, 1367.[106]

Further clarification of the process under the Statute of Praemunire is given us by remarks of Thorpe, chief justice of the Common Bench. In the Easter term of 1370 a writ on the Statute of Provisors was sued by the abbot of Waltham against several persons, against some as principals and against others as accessories. At the return of the *praemunire facias*, the principals did not come. They were put outside the king's protection; and their lands and chattels were declared forfeited. In the discussion as to whether the accessories should be made to

[103] *Cal. Pap. Reg.*, iv, 12, 13, 14, 46, 49; Rymer, *Foedera*, iii, 2, p. 89.

[104] Cf. T. F. T. Plucknett, *Statutes and their Interpretation in the First Half of the Fourteenth Century* (Cambridge, 1922), p. 34.

[105] *Year Books* (ed. 1679), 39 Edw. III, p. 7. On the question as to whether or not the *capias* should issue against the bishop, it is to be noted that the Statute of Provisors of 1365 excepted prelates and lords from the operation of the *capias*.

[106] *Cal. Close Rolls, 1364–1368*, p. 321; *Cal. Pat. Rolls, 1364–1367*, p. 420. Cf. *Chronica Johannis de Reading et Anonymi Cantuariensis*, ed. J. Tait (Manchester, 1914), pp. 158–159, 313–315. This case bulks large among those which caused the making of the Statute of Provisors of 1365.

respond, when the principals had not, Thorpe declared that the penalties imposed on the principals were those prescribed by the statute, "for the statute intends that if they do not come at the first writ, they shall be put outside the king's protection, and the *capias* shall issue against them; and if at the *capias* they do not come, they shall be put in exigent. . . ." [107]

The writ of *praemunire facias* did not completely supplant the writ of "arrest." Some examples of the use of the writ of "arrest" after 1353 have been noted above; [108] a few others should be noted here. In 1363 it issued against all persons who prosecuted appeals in derogation of the judgment by which the king recovered the right of presentation to the church of Haddenham in the diocese of Ely.[109] Walter of Bacton, who claimed the church through a papal grant,[110] was summoned to appear for prosecuting such appeals. For non-appearance he was put out of the king's protection, and his lands and goods were forfeited. But on 5 November, 1366, at the request of the chancellor, Simon Langham, the king pardoned him and restored his forfeited goods and lands.[111] He was later given license to prosecute his right according to ecclesiastical law.[112]

The writ of "arrest" issued on 17 June, 1354, against all who attempted to draw the king's right of presentation to the church of Chesterfield to another trial after the king had recovered it.[113] John of Radclive was summoned to the King's Bench for having carried the matter to the Court of Rome. Refusing to stand trial, he was outlawed for contempt.[114]

The chapter of Lincoln had a long-standing dispute with the dean of Lincoln about the right to collate to the keepership of the Altar of St. Peter in their church.[115] Despite several decisions in ecclesiastical courts which had granted the chapter a

[107] *Year Books* (ed. 1679), 44 Edw. III, p. 7.

[108] Cf. *ante*, pp. 71, 72, 73.

[109] *Cal. Pat. Rolls, 1361–1364*, p. 455.

[110] *Cal. Pap. Reg., Petitions, 1342–1419*, p. 460.

[111] *Cal. Pat. Rolls, 1364–1367*, p. 336. Bacton had been the official of Langham when the latter was the bishop of Ely: *Cal. Pap. Reg., Petitions, 1342–1419*, p. 460.

[112] *Cal. Pat. Rolls, 1364–1367*, p. 417.

[113] *Ibid., 1354–1358*, p. 118; *ibid., 1350–1354*, p. 273.

[114] *Ibid., 1354–1358*, pp. 128, 462.

[115] *Statutes of Lincoln Cathedral*, ed. H. Bradshaw (Cambridge, 1892–97), i, 121–124, 325–330, 347, 353–360.

concurrent right with the dean, dean Simon of Brisley tried to collate John of Wymondham independently about 1358.[116] The chapter denied the dean's claim and sued a *quare impedit* in the Common Bench. While this plea was pending, Wymondham appealed to the Court of Rome. For making this appeal, Wymondham and the dean were cited to appear before the King's Bench on a writ *cum secundum consuetudinem* .... Action was taken at the Common Law and not on the Statute of Praemunire. The accused did not come. A *capias* issued against them; and the sheriff of Lincoln was ordered to put them in exigent to be outlawed. At the Trinity term of 1360 they did not appear; the sheriff had not sent the writ. He was therefore commanded as before to put them in exigent.[117] Before the end of 1360 the dean was dead.[118] By 4 June, 1361, the chapter had recovered the right of presentation in the Common Bench. A writ of prohibition against proceedings in derogation of this judgment and a writ of "arrest" against all those prosecuting appeals issued.[119] Wymondham was outlawed for non-appearance; nothing is said about forfeiture. When, however, he surrendered himself to the Marshalsea prison, on 28 January, 1362, he was pardoned his outlawry, but had to suffer imprisonment until he had satisfied the law.[120]

Such examples as these show the use of the writ of "arrest" after 1353. It had not been supplanted by the writ *praemunire facias*. By the use of these two writs mesne process had been greatly accelerated since 1340.

In fine the Statute of Praemunire of 1353 provided new machinery for summons in actions against those who appealed outside the realm or elsewhere in matters of royal cognizance. It declared a new penalty for non-appearance on that summons, the penalty of forfeiture. It declared for continued default a penalty previously imposed, the penalty of outlawry. The form of summons and the penalties were applied particularly to fugitives from justice. It did not declare penalties against

[116] A papal provision due to vacancy was made in this year: *Cal. Pap. Reg., Petitions, 1342–1419*, pp. 307, 329.

[117] Coram rege Rolls, Trinity 34 Edw. III, Rex m. 23d.

[118] Le Neve, *Fasti*, ii, 33.

[119] *Cal. Pat. Rolls, 1361–1364*, p. 71.

[120] *Ibid.*, pp. 154, 490.

those who came and were convicted. Penalties against the convicted were agreed upon in the parliament in which the Statute of Praemunire was made; they were forfeiture and imprisonment.[121] They do not, however, appear in the statute itself.

In the light of the evidence presented above, the Statute of Praemunire of 1353 must be placed in a setting different from that in which it usually appears. In general, its political significance is overshadowed by its legal significance. It was in part executory of the Statute of Provisors, for it devised machinery for bringing infringers of that statute to justice. In consequence it may be considered an anti-papal statute. Against the papal court, however, it claimed no right that had not been claimed for half a century. It was made in an age when the law courts were responding "to that process of definition and differentiation which is discernible in other aspects of institutional history." [122] In that age statutes dealing with process and procedure were frequent.[123] It is among these statutes rather than among those which were specifically anti-papal that the Statute of Praemunire of 1353 has its proper place.[124]

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[121] *Rotuli Parlia.*, ii, 252.

[122] T. F. Tout, *Chapters in the Administrative History of Mediaeval England* (Manchester, 1920, 1928), iii, 180.

[123] Holdsworth, *op. cit.*, ii, 475.

[124] The writer wishes to express his gratitude and his indebtedness to Professor W. E. Lunt of Haverford College for his helpful criticism of the manuscript of this essay.

GREEK VISITORS TO ENGLAND IN 1455–1456

Accounts of the influence of Italian humanism upon England in the fifteenth century incline to put the emphasis upon two periods. One lies in the first half of the century when Humphrey, duke of Gloucester, who died in 1447, was a patron of Italian letters; the other falls after 1488 when Grocyn, Linacre and Colet visited Italy, returned with new enthusiasm for humanistic studies, especially for Greek, and made their influence felt upon university life. It is suggested that between the two periods interest in Italian learning languished, and that the humanizing of England definitely began only in the reign of Henry VII. Although between 1447 and 1488 a few Englishmen studied in Italy, their influence upon the culture of their own land was confined largely to the bringing home of libraries which they had collected abroad and which, in some instances, they gave to Oxford or Cambridge colleges. No significant change took place in university or other study and, in particular, Greek was not taught until the seventies, even if it was during that decade.[1]

In Italy, on the contrary, the period is the brightest in the annals of humanism. At Florence scholars gathered round Cosimo and at Rome round Nicholas V. Enthusiasm for the transcribing of manuscripts, the formation of libraries and the translation of Greek classics into Latin reached its height. The impetus earlier given to Greek studies by the teaching of Chrysoloras and by the presence of Greeks at the council of Ferrara and Florence in 1438 was augmented after 1453 by the arrival of Greek scholars and Greek manuscripts from Constantinople. It seems strange that no wave of this scholarly activity reached England, even though that distant land was troubled by foreign and civil war.

[1] G. Voigt, *Die Wiederbelebung des classischen Alterthums*, 3rd ed. (Berlin, 1893), ii, 254–260; J. E. Sandys, *A History of Classical Scholarship* (Cambridge, 1903–1908), ii, 220–225; C. L. Kingsford, *English Historical Literature in the Fifteenth Century* (Oxford, 1913), pp. 4–6; L. D. Einstein, *The Italian Renaissance in England* (New York, 1902), pp. 1–35.

The slight esteem felt for English humanism of the period 1447–1488 is reflected in the cursory manner in which it has been described. Voigt devotes to it four pages, Sandys three, and Einstein fifteen. Biographies in the Dictionary of National Biography, if not actually wanting, enlarge upon political rather than scholarly activities and, of course, do not correlate the careers of the men described. Occasionally a memoir on the following period, like that of Burrows on Grocyn, glances back to this earlier time.[2] What characterizes all accounts, however, is an extreme dependence upon Vespasiano's *Lives* and Leland's *Scriptores*.[3] Careful as the sixteenth-century English antiquary usually was, his biographical notes are brief, give little attention to dating or co-ordinating events, supply no references for many of his statements, abound in eulogy, rhetoric and repetition, and confessedly are jottings of such reports as were current and of such items as came to the writer's notice. Vespasiano confined himself to telling of the sojourn of three Englishmen in Italy. Although both authorities are indispensable, a more extended study of the period is to be desired and one may soon be forthcoming.[4] Meanwhile, it may be serviceable to add any pertinent items to the scanty sources available, especially if something can be learned about the beginning in England of what so much preoccupied contemporary Italy, the study and teaching of Greek. Dr. Montague James declares that "the very large subject which . . . is crying out for an adequate historian [is] the story of Greek Learning in Western Europe from 500 to 1500." [5]

[2] M. Burrows, *Memoir of William Grocyn*, in *Collectanea*, 2nd series (Oxford Hist. Soc., 1890), pp. 332–346.

[3] Vespasiano da Bisticce, *Vite di uomini illustri del secolo XV* (Florence, 1859); Eng. trans., W. George and E. Waters, *The Vespasiano Memoirs* (London, 1926). The translation is cited henceforth. J. Leland, *Commentarii de Scriptoribus Britannicis* (Oxford, 1709).

[4] V. Zabughin, in a review of a Russian study by W. Krusmann, the title of which he translates as *Gli albori dell' umanesimo inglese: i corrispondenti inglesi dei primi umanisti italiani nel loro ambiente piu immediato* (Odessa, 1915), says that the author proposes to treat in a monumental way the fifteenth as well as the fourteenth century. The latter is the subject of the volume of 743 pp. under review (*Giornale Storico della Letteratura Italiana*, lxvii, 405).

[5] M. R. James, "Greek Manuscripts in England before the Renaissance," *Transactions of the Bibliographical Society*, 2nd series, vii, 337.

New information, if not about the study of Greek, yet about mid-fifteenth century Greeks, is contained in four items entered on the issue rolls of the English exchequer for the year Michaelmas, 1455 — Michaelmas 1456.[6] They relate to the payment of gifts of money to four Greeks and run as follows:[7]

5 December, 1455. Dymetre Palaologi Militi. In denariis sibi liberatis per manus proprias in persolutionem x librarum quas dominus Rex certis de causis et consideracionibus ipsum dominum Regem moventibus de elemosina sua et dono suo liberare mandavit per breve de privato sigillo inter mandata de hoc termino
x li.

26 April, 1456. Manuell Crisolars de Gracia. In denariis sibi liberatis per manus proprias in persolutionem xl s. quos dominus Rex de avisamento Consilii sui eidem Manuell liberare mandavit habendos de dono suo per viam elemosine sue per breve de privato Sigillo inter mandata de hoc termino
xl s.

26 April, 1456. Episcopo Wyntoniensi. In denariis sibi liberatis per manus proprias in persolutionem x marcarum quas dominus Rex eidem episcopo pro tantis denariis per ipsum Episcopum solutis cuidam Emanuell Militi de Constantinoble ex mandato ipsius domini Regis de avisamento Consilii sui liberare mandavit ex causa predicta per breve de privato Sigillo inter mandata de termino sancti Michaelis ultimo preterito
vj li. xiij s. iiij d.

15 July, 1456. Iohanni Agiropulus de Constantynople. In denariis sibi liberatis per manus proprias in persolutionem x librarum quas dominus Rex eidem Iohanni liberare mandavit habendas de dono suo per viam regardi per breve generale currens de privato Sigillo inter mandata de termino Pasche anno xxxiij Regis nunc
x li.

[6] P.R.O., E. 403/806, 807.

[7] One of the following items seems to have been noted by Budden in his Latin life of William Waynflete. Giving as reference "E pella exitus," he says that a citizen of Constantinople, a knight of the golden cross named Emanuel, received through the intercession of Waynflete twenty pieces of gold from the royal treasury: R. Chandler, *The Life of William Waynflete* (London, 1811), p. 267, note.

What differentiates these payments from most of those on the rolls is that they are paid in cash and not by assignment. Usually the record runs *In denariis sibi liberatis per assignamentum* . . . and there is no certainty as to when the assignment was met or, indeed, whether it was met at all.[8] These gifts, however, came into the hands of the grantees — in three instances directly, in the fourth through an intermediary. Such personal receipt of the money fortunately removes any doubt that the four men were present in England at the time that the exchequer records payment. In the case of Palaeologos and Chrysoloras the writs issued to the barons when the gifts were decided upon were of the same exchequer term as the payment. The writ for Emmanuel's ten marks was of the preceding term. For Argyropulos, who was not paid until 15 July, 1456, the writ to the barons was among the writs of the Easter term of 1455, a period from ten to sixteen months earlier than the date of payment. To him, therefore, first of the four, a gift was promised between 1 March and 1 October, 1455.

As it happened, this was one of the most disturbed periods in the years of civil strife. The Yorkist party, which had been conducting the government with some ability during 1454, was dispossessed early in 1455, when, on 15 March, the earl of Wiltshire replaced the earl of Worcester as treasurer.[9] The Yorkists, quickly accepting the challenge, recovered power by the first battle of St. Albans, fought on 30 May. Promptly they reconstituted the administration and retained control of it until toward the end of 1456.[10] Three of the gifts to the Greeks date from October, 1455, to April, 1456, while it is likely that the one to Argyropulos was made in the four months of the Easter term which followed St. Albans rather than in the two months which preceded the battle. If so, the second Yorkist administration, which in general was able and reformist, was characterized also by some degree of generosity toward the refugee Greeks. At a time when it was making vigorous efforts to attain financial economy and stability, it bestowed upon them gifts, which,

[8] Often assignments are cancelled and new ones substituted for them. If they are not cancelled, they were probably paid sooner or later.

[9] *Cal. Pat. Rolls, 1446–1452*, p. 242.

[10] J. H. Ramsey, *Lancaster and York* (Oxford, 1892), ii, 199.

though seemingly small, yet amounted to more than was given to anybody else in cash.

The somewhat exceptional character of the gifts was more than paralleled by the entirely exceptional character of the visitors. Greek knights and Greek scholars can seldom have been seen in England before. Italian scholars had not infrequently come as visitors or at the suggestion of patrons. Poggio had accepted Cardinal Beaufort's invitation in 1418–1422, and Aeneas Silvius de' Piccolomini had journeyed into Scotland in 1435.[11] Gloucester's patronage had attracted Tito di Forli, Antonio Beccaria, and Lapo da Castiglionchio, the first giving testimony to his obligations to England by writing a significant life of Henry V.[12] Greeks, however, were not numerous anywhere in the west before 1453, and there is little record of them in England. The Greek emperor, Manuel Palaeologus, was entertained at Canterbury and at London in December, 1400, and Manuel Chrysoloras visited London apparently in 1406.[13] Although Greek merchants at times sent their wares to and from England in the Venetian galleys, they themselves probably did not go thither.[14] When, however, many Greeks became refugees after 1453, it is not surprising that they should have journeyed even to London. All that was needed to attract them anywhere was the possibility of getting assistance for their country or employment for themselves in their desperate straits. Before inquiring, however, what may have been the motives of the visitors of 1455–1456, we may well note any available information about their earlier careers.

[11] E. Walser, *Poggius Florentinus: Leben und Werke* (Leipzig, 1914), pp. 71–83; Voigt, *op. cit.*, i, 251–54.

[12] *Ibid.*, pp. 255–57; Kingsford, *op. cit.*, pp. 50–56.

[13] T. Walsingham, *Historia Anglicana*, ed. H. T. Riley (London, 1863–64), ii, 247; G. Schlumberger, *Byzance et Croisades* (Paris, 1927), pp. 119–122; Voigt, *op. cit.*, i, 228, note 4; E. Legrand, *Bibliothèque hellénique* (Paris, 1884), i, p. xxiv. In a comparison between Rome and Constantinople which Chrysoloras sent to John, son of the Emperor Manuel Palaeologus, he says that he had been in London two years before. Guarino comments on this comparison in a letter presumably written soon after it was made and the date of his letter is 4 October, 1408.

[14] Among the Venetian merchants who on 1 August, 1449, exported cloth from London in galleys appears the name of Andronicus de Constantinople, his two shipments being valued at £37 and £29 10*s*. In the same year he trafficked, too, on a Dutch ship, importing skins on 25 September, and exporting kerseys on 22 October: P.R.O., E. 122, 73/23.

Although three of them bore names distinguished among contemporaries, it is not certain that two of the three were themselves men of distinction. No Byzantine scholar had had greater influence upon the introduction of Greek studies into the West than had Manuel Chrysoloras, teaching his native tongue at Florence from 1396–1400. But he had died at Constance in 1415, leaving apparently one son named John. A nephew, John Chrysoloras, carried on his tradition of scholarship at Constantinople.[15] Of the Manuel Chrysoloras of the issue roll, there is no information elsewhere, unless he was the Michael Chrysoloras in whose behalf Filelfo appealed to Ludovico Gonzaga on 5 October, 1455.[16]

Demetrios Palaeologos, too, was a name well known in 1455. The bearer of it was a brother of the last emperor of Constantinople and since 1449 had been despot of a petty principality in the Morea with its capital at Mistrâ.[17] In 1454 he and his brother, Thomas, despot of another principality with its capital at Patras, were struggling against a rising of Albanian subjects who had besieged both capitals. Since they had already agreed to pay tribute for their principalities to Mohammed II, they now appealed to him for aid. In October, 1454, the sultan sent his general, Turakhan, with a large force, which, assisted by the troops of the two despots, crushed the revolt. Although Turakhan, when he left the Morea, advised the brothers to be loyal to each other, they at once began to intrigue, each for himself, as they had done for some years. Demetrios had in 1451 sought a marriage for his daughter with a nephew of Alfonso V of Aragon, who, on his part, had since 1453 been talking of making an expedition against the Turks.[18] In November, 1455,

[15] G. Tiraboschi, *Storia della letteratura italiana* (Florence, 1805–13), vi, 2, p. 784; Legrand, p. xxiii, note 3.

[16] . . . "virum illustrem, michaelem Dromachaten Chrysoloram, manuelis illius Chrysolorae necessarium qui extincta bonarum artium studia in lucem ad latinos revocavit, itemque viros nobiles Demetrium et michaelem affanes . . . Sunt, ut intelligis, honestissimo nati genere et iidem omnes Constantinopolitani" . . . (*Francisci Philelfi Epistolarum Familiarium Libri XXXVII* (Venice, 1502), fol. 90 v.). It is clear that refugee Greeks bearing the name of Chrysoloras were in Italy in the autumn of 1455.

[17] W. Miller, *The Latins in the Levant* (London, 1908), p. 415.

[18] *Ibid.*, pp. 427–431; F. Cerone, "La politica orientale di Alfonso di Aragon," *Archivio storico per le province napoletane*, xxvii, 571, 611.

Demetrios was again in correspondence with Alfonso, once more negotiating a marriage for his daughter. Alfonso now sent an envoy to examine the Isthmian wall and to report on the defenses of the country.[19] To prevent the threatened intrusion of Neapolitan influence into the Morea, Thomas urged the Venetians to checkmate his brother's negotiations, sending to them his minister Phranzês.[20] Demetrios, in turn, is said to have sought support in the West and to have appointed as his envoy to the pope and to King Charles VII of France the scholar, John Argyropulos.[21]

Thus in connection with an incident in the turbulent politics of the Morea, the names of Demetrios Palaeologos and John Argyropulos were coupled in the year 1455–1456. It can, however, scarcely have been the despot himself who came to England and was given £10 in December, 1455. Apart from the fact that the visitor is described by the comparatively humble title of knight, Demetrios was not in a position to leave his principality at that time. A letter of Alfonso of Aragon, written in November, 1455, addresses him as if he were in the Morea.[22] Probably the recipient of the gift was a relative, perhaps a son, of the despot, bearing his name. About him as about the younger Chrysoloras, there is no further information.

Very different is our knowledge of the despot's principal envoy, John Argyropulos of Constantinople, the scholar to whom a gift was first assigned.[23] His activity as a lecturer at Florence for fifteen years after 1456 was to bring him repute unsurpassed by that of any of his contemporaries.[24] Visitors to Florence, like the bishop of Fünfkirchen and the earl of Worcester, made

[19] F. Cerone, "La politica orientale di Alfonso di Aragon," *Archivio storico per le province napoletane*, xxviii, 188–193.

[20] Phranzês set out on his mission on 25 October, 1455, and returned to Patras on 6 April, 1456; Annales Georgii Phrantzae, *Corpus Scriptorum Historiae Byzantinae*, xxxv (Bonn, 1838), 385; K. N. Sathas, *Documents inédits relatifs à l'histoire de la Grèce au moyen âge* (Paris, 1880), i, 232–234.

[21] Miller, *op. cit.*, p. 431. In the references given there seems to be no account of this mission.

[22] Cerone, *loc. cit.*, xxviii, 188.

[23] The best memoir is G. Zippel, "Per la biografia dell' Argiropulo," *Giornale storico della letteratura italiana*, xxviii, 92–112.

[24] ". . . ad annos quindecium est professus." *Fontii Annales*, ed. G. C. Galletti (Florence, 1847), p. 154.

it a point to hear him. The youth of the city attended upon his teaching and Vespasiano's admiration for the brothers Acciaiuoli derived in part from their happy relations with him.[25] Before 1453 he had been in Italy once at least. From the latter part of 1441 to 1444 he was at Padua, for a time engaged at a liberal salary by Palla degli Strozzi to read Greek with him. Returning to Constantinople, he gave instruction there, perhaps at the time becoming the master of the young Lascaris who was to be so active in bringing to Italy Greek manuscripts.[26] Deprived of his property by the Turks, he decided to leave his family and appeal to Pope Nicholas V. Before August, 1454, he reached Florence.

Information about his movements at the time is contained in three letters written by Donato Acciaiuolo on the 5th, 6th and 20th of that month.[27] In the first Donato appeals to a friend in Rome, Jacopo Lucensis, who was in close relations with Cardinal Capranica. After telling how Argyropulos had recently come to Florence to seek papal support, he explains that he had made his acquaintance and found him erudite, wise, and worthy of Greece. Will not Jacopo assist the refugee through the cardinal, who in turn stands near the pope?

Next day Donato wrote to Argyropulos in reply to letters sent by the latter from Bologna. He assures the scholar that he is laboring day and night in his behalf. Let him return as quickly as possible to Florence, a city fit by its beauty and amenity to be his new home. A third letter written two weeks later is also to Argyropulos. Donato has learned that he is in Venice awaiting a ship to carry him to Greece. As a testimony that he is mindful of him he sends verses, wishes him a good voyage, and again urges his return. Together the three letters make clear that Argyropulos, coming first to Florence from Constantinople, made the acquaintance of Acciaiuolo and then in the summer of 1454 went by way of Bologna to Venice where he was reported to be waiting to take ship for Greece. The writer's devotion confirms Vespasiano's remark that, when

[25] Vespasiano, *op. cit.*, pp. 193, 336, 273, 279.

[26] *Ibid.*, p. 243; Zippel, pp. 92–93.

[27] *Ibid.*, pp. 94–95. Zippel prints the letters from a manuscript source.

Argyropulos came to Florence destitute, the two brothers Acciaiuoli relieved all his wants.[28]

Argyropulos' movements in Italy next become clearly traceable from October, 1456. At that time the Florentines gave him a chair in the Studio and soon he began a course of lectures on Aristotle's *Ethics*.[29] The interval between August, 1454, when he was waiting in Venice for the departure of the galleys, and October, 1456, when he was about to enter on his long engagement, is the period in his life which directly concerns us. Zippel, his competent biographer, fills it somewhat conjecturally. Whether Argyropulos went to Greece and when he returned if he did go, he thinks, cannot be ascertained; but to Florence he came before he was given the chair in the Studio and he probably occupied himself in the interval with private teaching.

The basis for the belief in a sojourn at Florence in 1455 is a sentence in another letter of Donato Acciaiuolo written on 24 September, 1463. It runs: ". . . venit enim in hanc urbem Argiropylus Bisantius statim post obitum Nicolai pontificis."[30] Since Pope Nicholas died on 25 March, 1455, a strict interpretation of *statim* would imply that Argyropulos returned to Florence in the spring of 1455. It is, of course, possible that he did then come there only to depart quickly for England, which he must have reached before the close of the Easter term of the exchequer on 30 September. It is more likely, however, that Donato, writing casually seven years later, did not intend to be precise and meant little more than that no long interval intervened between two events so noteworthy in the history of scholarship as the death of a scholar pope and the domesticating of a distinguished Greek at Florence.

Though Zippel, in the absence of contradictory evidence, is excusable in interpreting Donato's phrase precisely, he is less happy in his account of what Argyropulos did next. He describes the scholar as being at Milan in May, 1456, probably

[28] Vespasiano, p. 274.

[29] T. Klette, *Beiträge zur Geschichte und Litteratur der italienischen Gelehrtenrenaissance* (Greifswald, 1888–90), iii, 75–76.

[30] Zippel, p. 98, note 2.

enjoying the hospitality of Filelfo, and about to depart for France to beg the assistance of Charles VII. Perhaps provided with letters from Francesco Sforza he made the journey across the Alps; and that it was not unrewarded may possibly be conjectured from our finding him soon afterward surrounded by his family in Florence. Other writers have misinterpreted the evidence at this point. Klette thought that Argyropulos did not actually make the journey to France, and Voigt that he went to seek, but in vain, a post at the French court.[31]

The evidence upon which Zippel and his predecessors rely in describing this journey from Milan to France is contained in two letters of Filelfo written from Milan respectively on 17 May and 31 May, 1456. The first was addressed to Thomas Francus at the French court,[32] the second to Donato Acciaiuolo at Florence. In the former, of which Argyropulos was to be the bearer, he is introduced in the following words: "Cum adhuc in plaerisque suis lachrymabilem servitutem agat apud barbaram illam immanemque nationem, tue vel humanitatis vel officii esse arbitror ut quibuscunque in rebus poteris te in hanc talem et tantum virum et pium prestes. . . ." In the letter to Acciaiuolo, Filelfo explains: "Is, a principe nostro perhumaniter perbenigneque tractatus, transivit ad transalpinos, rediturus ad vos ad constitutum tempus." And he adds praise of Donato and other Florentine youths "quod talem tantumque et oratorem et philosopum greca [*sic*] vobis instruendis disciplinis profeceritis." [33] If it is permissible to see in this last clause a hint of the approaching appointment of Argyropulos to the chair in the Studio, the happy decision must have been made as early as May, 1456.

Where, meanwhile, was the Greek scholar? Filelfo's second letter makes clear that the journey across the Alps had been undertaken and implies that it had not yet been finished. It does not necessarily imply that Argyropulos had only recently

[31] Zippel, p. 99; Klette, *op. cit.*, iii, 74.

[32] Klette identifies him with Thomas Coronaeus, physician to the French king (*op. cit.*, iii, 74, 123). He must have been a Greek, since Filelfo, writing from Milan on 15 November, 1455, encloses letters for "Thomae Graeco Karoli regis medico" (*Epistolae*, fol. 91).

[33] *Ibid.*, fol. 94, quoted by Zippel, p. 99, note 1.

set out, or that he had set out from Milan, or that the journey had been by land. *Ad transalpinos* was a generic term for the north, and cordial antecedent treatment by Sforza does not insure that Milan was a point of departure. The letter to Thomas Francus is more informing. Argyropulos is sojourning with a barbarous and uncultivated nation and endures this servitude *in plaerisque suis*, in company with several of his countrymen. The implication of the remark about a barbarous nation has escaped the scholar's biographers, since, of course, they had no clue with which to interpret it. Neglect of it has led to the ungrounded inference that Argyropulos was in Milan in May, 1456, about to set out for France.

At this point the English documents supplement and explain Filelfo's letters. In May, 1456, Argyropulos was without doubt in England, since on the following 15 July he was paid £10. Inasmuch as the writ authorizing the payment was issued during the six months which preceded October, 1455, he may well have been resident there for about a year. Gifts to three other Greeks had been authorized and paid during the year in question. Perhaps there were in England still other Greeks than the four so favoured, as the phrase *in plaerisque suis* might imply. The delay in the payment of the first gift suggests that the government was not able, or perhaps not inclined, to do a great deal for the visitors and that the four payments were exceptional. If Argyropulos had complained to Filelfo about the delay in the payment of his promised £10, the latter's disparaging remark about the "barbarous nation" would be explained. Thus, instead of conflicting with Filelfo's letters, the English documents put them in their correct setting and clear up misconceptions arising from their cryptic language.

Argyropulos was not, then, in Florence or in Milan from the summer of 1455 to the summer of 1456. At some time after August, 1454, he left Venice and by the next summer, at least, had reached England.[34] In the interval he may have gone to

[34] If he took passage at once on a Venetian galley he could have reached England at the end of the year. The galleys usually reached Southampton, Sandwich or London between October and December. They reached London on 1 October in 1438, on 10 October in 1442, on 22 November in 1445, on 10 and 23 June in 1450; Sandwich, on 11 December in 1439; Southampton, on 9 October in 1443 and 19 June in 1444. P.R.O., E. 122, 73/12, 77/4, 203/3, 73/25, 127/18, 140/62.

Greece, as report had it that he was about to do. He may, at the time, have received from Demetrios Palaeologus, despot of Mistrâ, a commission to secure support from the pope and from the king of France; and to this end a relative of the despot may have been associated with him. There is, however, no evidence that Argyropulos visited France before going to England and Filelfo's letter of May, 1456, suggests that this mission was only then undertaken.[35] Some inducement must have led the Greeks to set out first for England, and the impulse may have been what they had heard about the English attitude toward assistance for the East.

As early as July, 1454, Henry VI had taken action to relieve distressed Christians in their struggle against the Turks. Supported by the council, he had given ear to a petition of the "Greek Maister of the Hospitall of Saint Johns of Jerusalem in Rodes" that he grant an *Annum Jubilaeum* in England in Lent next coming, the proceeds to be used in defense of the Christian faith. Letters embodying the request and asking support were dispatched to the pope, the cardinals, the emperor and the Venetians.[36] Not only was papal assent given but Calixtus later anticipated the paying over of the proceeds. On 1 September, 1455, he gave bond to Peter and John de' Medici and fellow merchants following the Roman court for 6000 gold florins then advanced. They were authorized to retain and exact the said sum from the moneys of the indulgences of the year of Jubilee which had been granted in England by Nicholas V, whether these were in their own hands or in the hands of others.[37] Again on 20 December, 1455, Calixtus acknowledged a loan of 5000 gold florins advanced to assist "in the preparation of the fleet which is being formed against the Turks." The

[35] Cf. *ante*, p. 90.

[36] *Foedera* . . . , ed. T. Rymer (London, 1704–35), xi, 351–356, 15 and 24 July, 1455. On 8 July, 1427, Henry had granted an annuity of 40 marks to Paul, "Comes de Valache in partibus Grecie," who had been ruined by Turks and Saracens (*ibid.*, x, 374). The issue rolls show that the annuity was paid to him in cash for some six years.

[37] *Calendar of the Entries in the Papal Registers relating to Great Britain and Ireland: Papal Letters* (London, 1893–), xi, 17. If the returns from England should prove insufficient, further payment was to be had from the tenth imposed, or to be imposed, in France. If the money was still unpaid from England and France after six months, the debt was to be met from the revenues of the camera.

creditor was Vincent Clement, subdeacon of the pope, and collector of the papal camera in England; the money was described as his own, paid by the hands of the Medici and other merchants of Florence who followed the Roman court. It is possible that this acknowledgment represents the shifting of the earlier obligation, reduced by 1000 *g. fl.*, from the bankers to the papal collector. The latter is authorized to retain his collectorship until fully satisfied.[38]

Thus in the spring of 1455 England was contributing to the fitting out of a fleet against the Turks. Between July, 1454, when the Jubilee year was authorized, and the following Lent, when it became effective, one or two papal embassies set out for England. A motive for sending them may have been a desire to stimulate interest in the cause which the popes had at heart; and with one or the other of them the Greeks may have associated themselves.

On 22 November, 1454, Henry VI and his council issued letters of safe-conduct for Bartholomeo Roverella, archbishop of Ravenna, accompanied by one hundred *familiares*, to journey to England or to Calais. At the same time Garter King of Arms was sent "beyond the See to meet and conduct the Right Reverent fader in God . . . sent by the Pope unto this lande." [39] Touching Bartholomeo, Vespasiano relates that Pope Nicholas, who created him an archbishop, sent him on divers missions, in which he always won high favor.[40] What this embassy accomplished if it reached England does not appear.

Calixtus III soon after his accession, issued on 15 April, 1455, a safe-conduct for one of his sergeants-at-arms, Antonio de Rocca Prioris, and five companions to visit England on papal business.[41] The embassy reached London before 15 July, on which day Antonio was paid £20 from the exchequer as a gift

[38] *Calendar of the Entries in the Papal Registers relating to Great Britain and Ireland: Papal Letters* (London, 1893–), xi, p. 26. On 20 September, 1455, the pope, in pursuance of letters addressed to all princes, sent Nicholas, cardinal priest of St. Peter ad Vincula, as legate *a latere* to England to obtain help from King Henry against the Turks (*ibid.*, p. 19). It may have been in connection with money promised to Nicholas that Vincent Clement advanced the loan.

[39] *Foedera*, xi, 360; P.R.O., E 404/70, writ of issue.

[40] Vespasiano, p. 141.

[41] *Cal. Pap. Reg.*, xi, 1.

from the government.[42] Although he may have come merely to announce the accession of the new pope, the mission may not have been unconcerned with the success of the indulgence which was in process of collection; and, since Argyropulos, who was deeply interested in the cause of Eastern relief, reached England as early as the spring or summer of 1455, it is possible that the Greek journeyed with this or with the earlier papal mission. Whether he did or not, his knowledge that Englishmen were taking the lead in making sacrifice for the Christian East may well have led him to visit England. His presence and that of his fellows would tend to stimulate interest in their cause.

Apart from patriotic or political motives, however, may not some of the Greeks have been led to England in the hope of finding there patrons who would make it worth their while to remain? And, if so, what Englishmen were reputed to have, as Duke Humphrey had had, an interest in classical scholarship, including Greek thought and letters? Could it, in the first place, have been the king? Tales of Henry's generous and scholarly temperament must have reached Italy before 1454; for the Roman court had during some years after 1440 been plied with requests for bulls touching his new colleges.[43] To judge from the attention given them in almost every sort of government record, nothing was so dear to the king as Eton College founded in 1440, and St. Mary and St. Nicholas (the later King's) founded at Cambridge in 1441.[44] At least it augured well to go to a realm where the ruler's first interest seemed to be the promotion of learning. While, however, Henry's repute may have been not without influence on the Greeks, it must have been known in Italy that since the autumn of 1453 his mind had been so clouded that the administration was in the hands of a regency. To the regent or to some members

[42] P.R.O., E. 403/801, 15 July, 1455. "Antonio Rocca Prioris, servienti ad arma Domini Pape nuper venienti versus Dominum Regem cum litteris et Nunciis a dicto domino Papa."

[43] *Correspondence of Thomas Bekynton*, ed. G. Williams (London, 1872), i, 160, 217, 219, 231; ii, 270–311.

[44] *Cal. Pat. Rolls, 1436–1441*, pp. 556, 521. Eton, 11 October, 1440; King's, 12 February, 1441.

of his council appeal would have to be made if assistance was to be got. There is no reason to suppose that the regent, the duke of York, was interested in humanists, either before 1454 or afterward. With the council, however, the case was different and it will be recalled that two of the gifts to the Greeks were given with the advice of the council. The members of this body who, before 1454, had shown an interest in learning were William Grey, bishop of Ely, and William Waynflete, bishop of Winchester. A third, John Tiptoft, earl of Worcester, was later to sojourn in Italy as scholar and patron. Finally, Andrew Holes, the keeper of the privy seal from 1450 to 1452, had a few years before been in close touch with Italian humanism. Of the four, Holes and Grey were in 1454 best known in Italy. Vespasiano wrote an enthusiastic life of each.[45]

Andrew Holes, whose name also appears as Hulse, Huls and Ols, and has been modernized as Hollis, resided in Italy in the days of Humphrey of Gloucester. A papal dispensation of 24 February, 1440, reciting two earlier dispensations which enumerate his benefices, describes him as of knightly and noble lineage, as having taken the degree of canon law at Padua with an examination, as successively chamberlain and sub-deacon of the pope, and as, at the moment, king's proctor at the Roman court.[46] On 27 February, 1437, he had been appointed king's proctor and this post he retained for nearly eight years.[47] Vespasiano, describing him as proctor of the king and as

[45] Vespasiano, pp. 206, 184.

[46] *Cal. Pap. Reg.*, ix, 81–82. The benefices were the archdeaconry of Anglesey, the parish church of St. Dunstan in the East, London, and various canonries in the dioceses of York and Lichfield. The dispensation limits the canonries to one. Much later, in 1459, when Holes was "in his old age" he obtained absolution from the pope for various canonical offenses of his youth. Among them was his allegation, in order to hold two benefices, that he was of knightly birth, whereas his father, although a noble, may not have been a knight at the time of his birth. Again, his relatives, at the time of his promotion to the archdeaconry of Anglesey, stated that he was in his twenty-fifth year, whereas he was barely in his twenty-second. Lastly, inasmuch as he had obtained a license from the ordinary that on account of the studies in which he was engaged, he should not be promoted to holy orders within seven years and was not so promoted, his benefices may have become void (*ibid.*, xi, 390). Since he became archdeacon of Anglesey in 1427, he must have been born in 1405 (J. LeNeve, *Fasti Ecclesiae Anglicanae* (Oxford, 1854), ii, 114). His studies extended over a period of at least seven years.

[47] Until 29 December, 1444. He received £100 a year (P.R.O., E. 401/805, 11 November). In 1438 he was given the chancellorship of the church of St. Mary, Salisbury (LeNeve, ii, 651).

acolyte to the pope, speaks of his repute for learning and of his holy and temperate life. For two or three hours daily he was locked in his chamber in prayer and he gave up the English custom of sitting four hours at table, adopting instead the Italian fashion of taking only one dish. Above all he was a collector of books, keeping many scribes occupied in copying manuscripts. When Pope Eugenius left Florence at the end of 1442, Holes remained to build up his collection, which became so large that it had to be sent to England by sea rather than by land. Though he could have been a bishop or a cardinal, Vespasiano surmises, he preferred to have done with the papal court and to return to England, where, putting aside secular affairs, he could betake himself with his books to a benefice.[48]

Holes probably returned to England some time during 1445, his successor being appointed in November.[49] Until 1450, he may have succeeded in living the retired life which he desired.[50] On 31 January of that year, however, he was appointed to succeed the late unpopular keeper of the privy seal, Adam Moleyns, the first victim of the revolt then threatening.[51] As privy seal he was sent in June by the council to confer with Cade.[52] Holes, therefore, assumed office as member of a reforming administration, played an important part in a crisis, and continued to be lord privy seal for two years — until 12 May, 1452.[53] The wage due from the exchequer was the liberal

[48] Vespasiano, p. 206.

[49] Cf. below, p. 98. He had been admitted to be archdeacon of the West Riding of York, 19 December, 1442 (LeNeve, iii, 133).

[50] In November, 1447, he was designated along with the Archbishop of Canterbury and others to supervise and maintain the estates of the priory of Ivychurch in the diocese of Salisbury, of late carelessly governed (*Cal. Pat. Rolls, 1446–1452*, p. 137).

[51] P.R.O., E. 403/783, 30 October, 1450. Payment of £100 to Master Andrew Huls, whom the king on 31 January last appointed keeper of the privy seal at the customary salary of 20*s.* a day.

[52] P.R.O., Issue Roll, E. 403/779, 29 June, 1450: "Magistro Andree Huls, clerico, custodi privati sigilli Regis nuper misso per avisamento concilii Regis ad loquendum cum ipso qui se vocavit capitaneum Kancie . . . pro expensis x libri." He received on the same day another cash payment of £10 as "nuper misso versus Kyllyngworth ad dominum Regem cum certis letteris de credencia a consilio . . . Regis" (*ibid.*).

[53] On that day Master Thomas Lyseux was given the custody of the privy seal (*ibid.*, E. 403/790, entry of 18 July); but Holes was still keeper on 15 February (*Cal. Pat. Rolls, 1446–1452*, p. 537).

one of £365 yearly.[54] If, therefore, information about the later career of the one-time king's proctor at Rome came to Italy, it was to the effect that he had come to hold a high and well paid office of state. Already known as an ardent bibliophile, he may in 1454 have appeared to expatriated Greeks in the light of a possible patron.

More likely, however, to have roused their hopes were the repute and position of an English humanist whose career was at the moment vivid in the minds of all Italians; for only a year or two before, Holes' successor at the Roman curia, William Grey, had terminated a long and remarkable sojourn in Italy. The date of Grey's birth and the identity of his parents are in doubt. Born probably about 1408,[55] a papal dispensation refers to him as of a race of barons and Vespasiano with some reason declares him an Englishman of the royal house.[56] Trained at Balliol, he acquired various benefices, including the archdeaconry of Northampton, and between 1440 and 1442 was chancellor of Oxford University.[57] Before he held the last office he seems to have studied for some years at Cologne; certainly after 1442 he resumed his studies abroad. At Cologne he had devoted himself to logic, philosophy and theology; but, having mastered these subjects and being eager to learn something of the humanities, he now came to Italy.[58] After commissioning

[54] *Cal. Pat. Rolls, 1452–1461*, p. 65.

[55] He held a prebend in St. Paul's as early as 1431, and he died in 1478 (LeNeve, ii, 404, 339; cf. *Dictionary of National Biography*).

[56] *Cal. Pap. Reg.*, ix, 9; Vespasiano, p. 184; in 1472, Grey is called a kinsman of Edward IV (*Cal. Pat. Rolls, 1467–1477*, p. 337); cf. *Dict. Nat. Biog.*

[57] Leland, p. 461; *Cal. Pap. Reg., ibid.*; LeNeve, iii, 467.

[58] Vespasiano says that his parents sent him to Cologne where, well supplied with servants and horses, he lived for some years. From Cologne he came directly to Florence. To avoid seizure for ransom as he journeyed, he left in disguise and on reaching Florence sent for Vespasiano to tell him about his adventure (*op. cit.*, p. 185). There are difficulties in reconciling this narrative of a continuous sojourn abroad with Grey's being chancellor of Oxford in 1440–1442. If there were years of study at Cologne, they must have been before 1440, since the chancellor of a university can scarcely be described as sent by his parents to study abroad; yet Vespasiano does not relate that Grey returned from Cologne to become chancellor before he undertook the Italian journey. Inasmuch as Vespasiano was born in 1421 and must have been more than twenty years old when sent for by a visiting stranger, Grey's contact with him in Florence can scarcely have been earlier than 1442. The only hypothesis which renders Vespasiano credible is to assume that there were years of study at Cologne before 1440 and a brief visit there on the way to Florence in 1442.

Vespasiano in Florence to transcribe many books for him, he went to Padua to study, and later to Ferrara to hear Guarino. Wishing to have in his house a young man of letters, he invited thither the eager but poor young scholar, Niccolo Perotto, who now took up the task of getting books transcribed for his patron — a great number in the classics, in philosophy, and in theology. Since Grey had collected books in Cologne, Florence, and Padua, and was to collect others in cities which he visited, the outcome was a noble library, later given to Balliol College.[59]

After "several years" spent in study at Ferrara, relates Vespasiano, Grey was bidden to go to Rome as the king's proctor. At this point our chronology becomes more sure; for the writ of privy seal appointing him to this post bears date of 18 November, 1445.[60] The years of study at Padua and Ferrara must, therefore, have been about three. During the next eight years, a period corresponding pretty closely with the pontificate of Nicholas V (1447–1455), Grey was the representative of England at the papal court.[61] In growing favor with the scholar-pope, he is referred to in 1448 as apostolic notary and referendary, posts which he continued to hold until 1454.[62] On 21 June of this year, through a combination of royal and papal favor he was nominated to be bishop of Ely and on 6 September escheators were instructed to deliver to him the temporalities of his see.[63] In the hive of busy translation which Rome became under Nicholas V, Grey had done at least one thing to promote the study of Greek. When Perotto, accompanying him from Ferrara, wished to perfect himself in this language, he secured for the young man a reception into the household of Cardinal Bessarion. From this, writes Vespasiano, sprang

[59] Vespasiano, p. 185. [60] *Cal. Pat. Rolls, 1441–1446*, p. 390.

[61] On 25 January, 1448, he was associated as king's proctor with Master Henry Sharp, both receiving royal commendation for securing bills relative to Eton college (*ibid., 1446–1452*, p. 175). On 8 October, 1450, he was re-appointed king's proctor (*ibid.*, p. 404). On 7 November, 1454, Vincent Clement was appointed to succeed him (*ibid., 1452–1461*, p. 195).

[62] *Cal. Pap. Reg.*, x, 44, 388, 508, 142, 698.

[63] *Ibid.*, p. 698; *Cal. Pat. Rolls, 1452–1461*, p. 204. He had been provided with the see of Lincoln on 23 December, 1450, but surrendered this on the following 5 May without having had possession (*Cal. Pap. Reg.*, x, 508, 600).

Perotto's rich harvest of Greek scholarship.[64] Perhaps there were other ties between the well-born Englishman and the Greek cardinal.

Returning to England, probably in 1454, Grey at once began to play a political rôle.[65] On 13 November of that year he was one of the twenty-nine members of a great council who signed the ordinances then "concluded" for the regulation and reduction of the king's household.[66] On 4 March, 1455, he was a member of the king's council and of a commission appointed to arbitrate between York and Somerset; from the end of the year he appears frequently among the king's councillors.[67] During the period, therefore, when gifts were given to the Greeks, Grey was bishop of Ely and a member of the council of the regency which for two years carried on the government while the king was ill or captive.

Whether a reliance upon Grey's patronage was one of the influences which induced the refugees to come to England can only be conjectured. In the autumn of 1454, when Argyropulos was in Venice, awaiting passage for Greece or for England, Pope Nicholas had already fallen into ill-health. His sufferings rendered him difficult of approach and he died on 25 March, 1455.[68] Upon him Argyropulos had primarily relied in coming to Italy. Now that hope in him was vanishing, it might be well to reflect, not only that an indulgence for the East was on the point of being collected in England, but that one of the pope's closest associates, an Englishman of noble birth, king's proctor for years at Rome, of considerable repute for philosophical and classical learning, interested in Greek scholarship and perhaps intimate with Bessarion, had recently returned to his native land to fill high posts in church and state.

[64] Vespasiano, p. 185.

[65] In 1452 he had journeyed to England as papal notary apostolic to bring the *pallium* to the newly elected archbishop of Canterbury (*Cal. Pap. Reg.*, x, 603).

[66] *Proceedings and Ordinances of the Privy Council of England*, ed. Sir H. Nicholas (London, 1834–37), vi, 233.

[67] *Foedera*, xi, 361–363; *Proceedings*, p. 262 (10 Nov., 1455), pp. 272, 275, 279, 286 *et passim*. Although records of the council are almost non-existent between December, 1454, and August, 1455, it is likely that Grey was a member of that body throughout the year, as he continued to be throughout 1456.

[68] L. Pastor, *History of the Popes*, Eng. trans. (London, 1899–), ii, 307, 313.

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Grey may have held out some inducement for the Greeks to follow him; even if he did not, the prospect was not without promise. The new bishop of Ely was, along with Andrew Holes, the Englishman who in the years 1454–1456 could best appreciate the new humanism.

If it may be conjectured that some of the Greek visitors came to England partly in the hope that they would find there sympathetic and influential patrons, it remains to inquire whether their visit had results beneficent either for themselves or for Greek scholarship in the island. As for themselves, the royal gifts were not large, were not repeated, and were not the prelude to annual stipends.[69] Continuous support could have come only from a patron or from employment in university or college. Argyropulos, despairing of assured income and with friends and prospects in Florence, made haste to return thither in 1456. As an episode in his career the visit is of interest and his reports about England must have become current among humanists. About Demetrios Palaeologos and Manuel Chrysoloras information is wanting after, as well as before, 1456. But about the activities of the fourth visitor, Emmanuel of Constantinople, enough can be learned to make clear that he remained in England and was perhaps not without influence on the development of scholarship there. The ten marks paid him, it will be remembered, passed through the hands of the bishop of Winchester. At the moment, as it happened, the bishop was establishing his new foundation, Magdalen College, and later traditions had it that he provided for the study of Greek.[70] That there may have been, through the bishop, some connection between the Greek visitor and the new study is at once suggested; and we are led to inquire what can be learned about the matter. As prelude to an answer, a summary of accepted views about the beginning of the teaching of Greek in England is apposite.

As possible teachers of Greek in England before 1488 three men are usually mentioned.[71] In this year William Grocyn,

[69] John Lydgate, for example, had on 22 April, 1439, been given an annual stipend of ten marks a year, which on 7 May, 1440, was increased to £7 13*s.* 4*d.* (*Cal. Pat. Rolls, 1436–1441*, pp. 256, 402).

[70] Cf. below, p. 110.

[71] A sentence in the letter written by the University of Oxford to the Duke of Glouces-

who had come to New College as a fellow in 1465, went to Italy. Returning thence in 1491 he straightway began to lecture on the subject at Oxford.[72] There is reason to think, however, that before he went to Italy he was not without knowledge of Greek — was, indeed, already teaching it, however imperfectly.[73] His instructor in the language before 1488, it is argued, was an Italian scholar named Cornelio Vitelli, who came to New College as "praelector" not later than 1475. Since Vitelli did not return to the continent until 1489, Grocyn may have been under his instruction for thirteen years or more.[74] The weak point in the argument is the absence of specific contemporary evidence that Vitelli taught Greek. All that we know about his teaching, apart from Leland's calling him praelector of New, is contained in a sentence of Polydore Vergil. Observing that William Lily on his return from Italy was the first Englishman to teach letters in England[!], Polydore adds "antea enim Cornelius Vitellius, homo Italus Corneti . . . natus nobili prosapia omnium primus Oxonii bonis literis iuventutem erudivit." [75] It is possible that to Polydore *bonae literae* included Greek as well as Latin letters. In his opening sentence of this brief account of

ter in 1441 scarcely implies, as the editor (by omitting "Latinis") infers, "that now we [Englishmen] can study in the original language the works . . . of Greek philosophers." It is rather that the Duke has helped the Latins to do this. "Nunc Grecos philosophos . . . non superficie tenus et intute uti per priores translaciones sed intus et in profundo Latinis cernendi copia datur" (*Epistolae Academicae Oxon.*, ed. H. Anstey (Oxford, 1898), i, 202–203).

[72] Burrows, *op. cit.*, pp. 334, 337.

[73] *Ibid.*, p. 337. Burrows quotes Erasmus and George Lily. Erasmus wrote: "Ipse Grocinus . . . nonne primum in Anglia Graecae linguae rudimenta didicit? Post in Italiam profectus audivit summos viros sed interim lucro fuit illa prius a qualibuscunque didicisse" (*Desiderii Erasmi Roterodami Opera Omnia*, ed. J. Le Clerc (Leyden, 1703–06), iii, 379). Lily declared that Grocyn "prima graecae et latinae linguae rudimenta in Britannia hausit mox solidiorem eisdem operam sub Demetrio Calchondile et Politiano praeceptoribus impendit . . ." (*Virorum aliquot in Britannia . . . Elogia* in P. Giovio, *Descriptio Britanniae*, 1548).

[74] Burrows, pp. 339–342. Burrows fixes the date 1475 by correcting Leland, who says that to Vitelli's opening lecture as praelector an oration was made in reply by John Chaundler, whom he has already described as warden of New. Actually, Leland was writing a sketch of Thomas Chandler, as appears from other items of the biography (*Scriptores*, pp. 456–457), and made a mistake about the Christian name. Thomas Chandler, who became warden of New in March, 1453, resigned the wardenship in 1475 (LeNeve, iii, 554).

[75] *Polydori Vergilii Urbinatis Anglicae Historiae Libri Vigintiseptem* (Basle, 1570), p. 618.

the spread of learning from Italy to the North he says, "Iisdem temporibus perfectae literae similiter Latinae atque Graecae . . . sese trans Alpes . . . effuderunt." [76] At best, however, the statement about Vitelli is general and equivocal, warranting little more than a possibility that the Italian taught Greek at Oxford. If he did, not only Grocyn but also Linacre, who went to Oxford about 1480, was elected fellow of All Souls in 1484, and left for Italy next year, may have learned from him; or, of course, Linacre may have learned from Grocyn.

Beside Vitelli and Grocyn as perhaps the first teachers of Greek in fifteenth-century England it has been customary to place William Selling or Celling. As a young man Selling left his monastery at Canterbury, Leland relates, to study the liberal arts at Oxford, and acquired no little renown before he returned. Day and night Italy was before his eyes. Getting permission from his superior to go thither, he was soon eagerly studying civil and canon law at Bologna and arguing not without mature judgment. At the time, however, Politian was at Bologna urging the cause of letters. With him Selling became intimate, took an interest in things Greek (*graecissat*) and industriously acquired many *Graeca exemplaria*. He showed equal care in collecting Latin authors, insisting on standard codices. With these treasures he returned to Canterbury where, because of his repute, he was chosen to be head of his monastery. Later, Henry VII sent him to Rome as his orator. On this journey he took with him Thomas Linacre, leaving him at Bologna to study with his old friend Politian. Soon after his return he died. In a fire at Canterbury many of his books were burned. The *Commentaria Graeca Cyrilli in Prophetas*, however, were snatched out half-burned, while wholly safe were *Basilii in Esaiam Magni Commentarii*, *Synesii Opera*, and other Greek codices.[77]

Some of the events described by Leland can be dated from other sources, but not without perplexity. Care is needed to distinguish the Selling of his biography, who was a monk of Christ Church, Canterbury, from another William Sellyng, a

[76] *Op. cit.*, p. 617.
[77] Leland, pp. 482–483.

contemporary and, from 1464 to 1482, abbot of St. Augustine's, Canterbury.[24] Even after this distinction is made, Leland's account does not entirely accord with other available information. William Selling of Christ Church is said to have been admitted as monk there in 1446 and some four years later to have been studying at Oxford, whence he wrote eloquent Latin letters to his prior.[25] Since he celebrated his first mass at Canterbury in September, 1456,[26] and must then have been about twenty-five years old, the Oxford residence may belong to the decade of the fifties. He is apparently the William Celyng, a Benedictine, who on 7 February, 1458, supplicated for the degree of B.D.[27] He probably continued his studies for some years after this; for it was not until 1464 that he was granted leave of absence for three years to study *ubi studium viget generale*.[28] Although the phrase does not necessarily imply that he intended to study abroad, the records of the University of Bologna show that he took a degree in theology there on 22 March, 1466.[29]

While dates thus far assigned to Selling's activities accord with Leland's account, difficulty attaches to the antiquary's statement that it was Politian, then resident at Bologna, who turned the English monk from law to letters. Politian, born in 1454, can scarcely have exerted this influence at the age of twelve or thirteen.[30] If it was he who inspired in Selling a love for classical learning, as Leland's remark about the entrusting of Linacre to an old friend would further imply, the acquaint-

[24] *Cal. Pat. Rolls, 1461–1467*, p. 396; *ibid., 1476–1485*, p. 318. A royal license of 8 November, 1456 permitted him to journey to foreign parts for five years accompanied by one monk and four servants. He was to take an oath to the prior of Christ Church that he would not at Rome or elsewhere sue for anything prejudicial to the king or his subjects. *Literæ Cantuarienses*, ed. J. B. Sheppard (London, 1887–89), iii. 243–244).

[25] *Christ Church Letters*, ed. J. B. Sheppard (Camden Soc., 1877), pp. xxxviii, 13, 16. The editor does not give his authority for the year 1446 nor for dating the letters ca. 1450. Thomas Goldstone, to whom they were addressed, was prior from 1449 to 1468 (*ibid.*, p. 102). The letters may have been written somewhat after 1450.

[26] J. A. Gasquet, *The Eve of the Reformation*, 3rd ed. (London, 1905), p. 22.

[27] C. W. Boase, *Register of the University of Oxford* (Oxford, 1885), p. 81.

[28] *Lit. Cantuar.*, iii, 230.

[29] G. Mazzetti, *Memorie storiche sopra l'università e l'istituto delle scienze di Bologna* (Bologna, 1840), p. 356. Quoted by Gasquet, loc. cit.

[30] U. Chevalier, *Repertoire des sources historiques du moyen âge: Bio-Bibliographie*, 2nd ed. (Paris, 1907).

ance must belong to later years. In October, 1469, Selling, with a fellow-monk, received letters of recommendation to take with them on a journey to Rome.[85] How long he stopped in Italy and whether he then met the still very young Politian is not known. He may have visited Padua as well as Rome.[86] Before 1472 he had returned to England, and in that year was elected prior of Christ Church.[87] If much credit is to be given to the story of the friendship with Politian, a third sojourn in Italy soon after 1472 may be inferred.[88] The last Italian journey, undertaken to announce the accession of Henry VII to Pope Innocent VIII, and noteworthy as giving Linacre an opportunity to visit Italy, belongs to 1485–1486. For twenty-two years, until his death in 1494, Selling governed his house.

Such a career connects Selling with the study of Greek, and there is a tradition that he introduced the teaching of it into fifteenth-century England. It is clear that soon after 1464 he had, while in Italy, interested himself in the language and had acquired several Greek *exemplaria*. There were Greek manuscripts in his library at the time of his death in 1494. That he became a Greek scholar is perhaps implied, for, although his academic pursuits in Italy were not unlike the earlier ones of Holes and Grey, he differed from them in collecting Greek as well as Latin authors. His monument in Canterbury cathedral designates him "Doctor theologus Selling, Graeca atque Latina lingua perdoctus"; an *obit* in a Christ Church MS. refers to him as "lingua Graeca et Latina valde eruditus"; and another Canterbury obituary declares him "Latina quoque et Graeca lingua apprime institutus."[89] Less convincing is the statement of William of Worcester, who records rules "de certis terminis grecorum in grammatica declaratis per doctorem Selling Ecclesie Christi Cantuariensis" and proceeds to give only definitions of Greek rhetorical terms.[90]

[85] *Litt. Cantuar.*, iii, 244.

[86] In a Canterbury memorandum of 1478 it is said of Selling "olim in studio et civitate Pattavina ac eciam Rome familiarissime usus est" (*Christ Church Letters*, p. xxvii).

[87] *Ibid.*, p. xli. [88] So T. A. Archer, in *Dict. Nat. Biog.*

[89] Sandys, *op. cit.*, ii, 225; Gasquet, *op. cit.*, p. 24, note 1; T. Tanner, *Bibliotheca Britannico-Hibernica* (London, 1748), p. 162.

[90] Cott. MS., Julius F. VII, fol. 118. Gasquet, who cites this reference without quot-

Between 1472 and 1494, therefore, the prior of Christ Church was a scholar who probably knew Greek. He may have fostered the study of Greek in the monastery school and Linacre may have learned the elements of Greek there as well as at Oxford, whither he went in 1480. But the actual evidence about Selling's teaching is slight;[91] and Christ Church was a place less favorable for the introduction of Greek study than was Oxford. These were the days when the monasteries, recognizing the trend of education to the universities, were themselves establishing halls of residence in them for their younger members. Christ Church had itself founded Canterbury Hall at Oxford and letters of 1473 are concerned with benefactions in its behalf.[92]

Less intangible than the evidence regarding the influence of Selling, Vitelli, or Grocyn in introducing the study of Greek into England is information about a fourth scholar recently brought to light; for Dr. James has been able to identify the author of certain Greek manuscripts which hitherto have mystified students. Longest known is the so-called Leicester Codex of the New Testament, the property of the borough of Leicester. In 1887 Dr. Rendel Harris described the peculiar fifteenth-century hand in which it is written and argued that, like a psalter of Caius College, Cambridge, written in the same hand, it belonged, before the dissolution, to the Franciscan convent in Cambridge.[93] By 1900 he was able to identify three other

ing it (p. 25) translates "terminis grecorum" as "certain Greek terminations" and thereby infers perhaps a greater knowledge of the Greek language on the part of Selling than is warranted by the text.

[91] Soon after his accession, he wrote to the archbishop that he had "provided for a schoolmaster for your gramerscole in Canterbury, the which hath lately taught gramer at Wynchester and atte Seynt Antonyes in London" (*ibid.*, n. 2). There is no mention of Greek.

[92] *Litt. Cantuar.*, iii, 267, 270. It had been founded in 1362 and rebuilt about 1396, *Chr. Ch. Letters*, pp. xii–xiv.

[93] J. R. Harris, *The Origin of the Leicester Codex of the New Testament* (London, 1887), pp. 8, 11–33. The hand, while not coarse or careless, is a free one, and is characterized by a recumbent ϵ, the grave accent written vertically, and by some confusion in the breathings. The argument turns upon the ownership of the Caius psalter by Richard Brynkley whose name is twice written in it. He was a member of the Franciscan house at Cambridge and became the last provincial minister of the order in England. Further, in the binding of the psalter, use has been made of a vellum leaf which may well be from an account book of an East Anglian monastery. The Leicester Codex can be traced back to the hands of a prosperous sixteenth-century scholar resident in Cambridge, one William Clark, and Dr. Harris supposes that it, too, belonged earlier to the Minorites there.

manuscripts as written in the same hand, an Aristotle and a Plato, both in the chapter library of Durham cathedral, and a psalter in Trinity College, Cambridge.[94] Since then there have been added to the group a psalter and part of the lexicon of Suidas, both now in Corpus Christi College, Oxford, and a nearly complete Suidas given by the Chapter of Durham to Lord Oxford and now in the British Museum.[95]

Identification of the writer of these manuscripts came with Dr. James' discovery at Leyden of a Demosthenes which has a colophon in the hand of the Leicester Codex noting that the MS. was written in 1468 "by me Emmanuel of Constantinople" and given to George Neville, archbishop of York.[96] Although the identity of the scribe was thus revealed, the texts from which he copied and the places in which he resided when he did so have not for the most part been ascertained. The Leicester Codex has as prototype one of a half-dozen MSS. of Sicilian or Calabrian origin, none of which is or has been in England.[97] The two copies of Suidas may derive from a manuscript once belonging to Grosseteste.[98] The classical MSS., it is conjectured, may belong to the period before Neville's deportation to Calais in 1472; the psalters to a later period, when some of his household found their way to Cambridge. The connection of the Caius psalter and the Leicester Codex with the Franciscan convent of Cambridge forms a basis for the latter surmise. Whatever the unsolved problems, the significance of the presence of a Greek scribe in England before 1470 has been recognized.[99]

[94] Harris, *Further Researches into the History of the Ferrar-Group* (London, 1900), pp. 25–34. His account of these MSS. is incidental to a learned discussion of a group of eight manuscripts of the gospels (the Ferrar group), the texts of which show marked peculiarities and all of which, except the Leicester Codex, date from the eleventh, twelfth or thirteenth centuries. He concludes that most of them originated in Sicily or Calabria in the twelfth century.

[95] M. R. James, *Greek MSS. in England before the Renaissance*, p. 351; "Another Book Written by the Scribe of the Leicester Codex," *Journal of Theological Studies*, xii, 465; *The Wanderings and Homes of Manuscripts* (London, 1919), p. 17. P. S. Allen, *Age of Erasmus* (Oxford, 1914), p. 21. I am indebted to Dr. James and to Professor Austin Grey for these references.

[96] M. R. James, *Descriptive Catalogue of MSS. in the Library of Corpus Christi College, Cambridge* (Cambridge, 1912), i, 166.

[97] Cf. above, n. 94.

[98] James, *Greek MSS. in Eng.*, p. 342.

[99] Allen, p. 122.

It is about precisely this Greek scribe, however, that the entry of our issue roll is specific. For there can be no doubt that the Emmanuel of Constantinople who wrote the Leyden and the other MSS. was the "certain Emanuell, knight of Constantinople" to whom the bishop of Winchester had before 26 April, 1456, paid ten marks at the command of the king and council. By 1468 the Greek had dropped the designation "knight," perhaps through consciousness of changed circumstances, perhaps because it was natural to use the title only formally.[100] What is significant is his connection with the archbishop of York on the one hand and with the bishop of Winchester on the other.

George Neville, son of the earl of Salisbury, brother of the earl of Warwick, and cousin of the duke of York, was in 1456 just being advanced to be bishop of Exeter.[101] Not until 1465 was he promoted to the see of York.[102] On 25 June, 1454, a papal dispensation had addressed him as archdeacon of Durham and had described him as in deacon's orders and in his twenty-second year.[103] Young as he was, however, he had been made chancellor of Oxford university on 9 June, 1453, a post which he retained until the summer of 1457.[104] Though replaced for four years by Master Thomas Chandler, he regained the chancellorship in 1461 and continued to hold it until 1472.[105] Not only was he archbishop of York during the last seven years of this period but with the accession of Edward IV in March, 1461, he became chancellor of England and retained the high office until

[100] A papal bull designating Manuel Chrysoloras as one of an embassy to meet the emperor Sigismund in 1413 calls him "militem Constantinopolitanem" (Legrand, *op. cit.*, i, p. xxvi).

[101] *Cal. Pap. Reg.*, xi, 30. Papal provision to George Nevill, canon of York and bishop-elect of Exeter, of the church of Exeter, 4 February, 1456; *Cal. Pat. Rolls, 1452–1461*, p. 281. Mandates to escheators to deliver the temporalities of Exeter, 21 March, 1456.

[102] *Ibid., 1461–1467*, p. 455. Similar mandates touching the temporalities of York, 17 June, 1465.

[103] *Cal. Pap. Reg.*, x, 717. As soon as he has completed his twenty-second year, the dispensation provides, he may be promoted to the order of priest.

[104] LeNeve, iii, 467; *Epis. Acad. Oxon.*, i, 317, 318, 331, 335.

[105] *Ibid.*, ii, 368, 372, 374, 378, 382, 386, 389, 398. The earliest of these designations is on 17 February, 1462, the latest on 4 March, 1472; but, in a commission of the peace for the town of Oxford dated 20 July, 1461, Neville is called chancellor of the university (*Cal. Pat. Rolls, 1461–1467*, p. 570); cf. LeNeve, *loc. cit.*

8 June, 1467.[106] Though deprived of the great seal at this time and though in political disgrace at various times from 1470 to 1474, he remained archbishop of York until his death in June, 1476.[107] Concealed under ecclesiastical nomenclature it was a political career of twenty-three years begun at the age of twenty and reflecting the fortunes of the Nevilles.

Not as chancellor of England or as bishop of Exeter or even as archbishop of York, however, is it likely that George Neville first became a patron of Emmanuel of Constantinople. Rather in his long incumbency of the chancellorship of the university of Oxford would he have become interested in translation from the Greek and perhaps in the teaching of Greek.[108] True, the chancellorship seems to have been a political post and the incumbent a favorite of the king or an adherent of the dominant faction.[109] Yet we have seen that William Grey was a scholar of promise and that Thomas Chandler welcomed Vitelli with an oration. Probably the circumstance that the chancellor in 1468 was also archbishop of York had considerable to do with Emmanuel's dedication. It need not, however, be inferred that the Greek scribe copied for Neville the other manuscripts which are in his hand or that he was a member of the archbishop's household, perhaps going as such to Cambridge after the household was disbanded. Emmanuel is quite as likely to have been resident in Oxford in 1468 and perhaps for years before. Some probability will attach to this hypothesis by a consideration of the scholarly interests of the other bishop with whom in 1456 he was associated.

William of Waynflete was a prelate very different in age and tradition from George Neville. When he paid the ten marks to

[106] *Cal. Pat. Rolls, 1461–1467*, p. 35, "bishop of Exeter and chancellor," 10 March, 1461; *Foedera*, xi, 578.

[107] LeNeve, iii, 111.

[108] Specific evidence about the young prelate's interest in educational or charitable institutions is slight. With his brother, Richard, earl of Warwick, he secured on 11 May, 1461, a licence to found the college of St. William, York, for chantry priests (*Cal. Pat. Rolls, 1461–1467*, p. 47). Next year he appears as master of the hospital of St. Leonard, York, and again in 1465 (*ibid.*, pp. 247, 477).

[109] When Neville was in disgrace in 1472, the university thanked Edward IV for granting free election of a chancellor; but it proceeded to choose his chaplain, Master Thomas Chandler (*Epis. Acad. Oxon.*, ii, 401). The king had told them that they need not elect a bishop as had been their custom (James, *MSS. Corp. Chr. Coll.*, ii, 325).

Emmanuel in 1455–1456, he was about sixty years old and had been for nine years bishop of Winchester. In a general way he was heir to the illustrious traditions of his immediate predecessors at Winchester, to both the educational fame of William of Wykeham and the political activities of Cardinal Beaufort. Educated probably at Wykeham's two foundations, the college at Winchester and New College, Oxford, he was nominated by Cardinal Beaufort in 1429 to be master of the hospital of St. Mary Magdalen near Winchester. When in 1440 the king founded Eton, Waynflete was named fellow and in 1443 became second provost of the college. With his promotion to the see of Winchester in 1447 a political career opened. Becoming a member of the privy council, he was one of those who treated with Cade in 1450; and in March, 1452, he was sent by the king to make terms with the approaching Duke of York.[110] Throughout the regency his constant attendance at the council indicates that he was *persona grata* to the Yorkists.[111] Becoming chancellor on 11 October, 1456,[112] he threw in his lot with the queen's party, which soon afterward recovered influence, and for four years in his high position became increasingly anti-Yorkist. Although his political career naturally came to an end in 1461, he remained bishop of Winchester until 1486.

During the twelve years of Waynflete's active political life his interest in education was not dormant. Indeed, a strong bond between himself and the king continued to be their eagerness to establish and endow colleges. Just as he had been put in charge of Eton shortly after its foundation, so he came to be associated with the king's second college, St. Mary and St. Nicholas, Cambridge. In 1455 to him and to the bishop of Lincoln was given power to reform, with the advice and counsel of the provosts, the statutes of both colleges.[113]

Since few achievements of William of Wykeham had had happier results than the foundation of New College, of which Waynflete had himself probably been a fellow, the most appro-

[110] Chandler, *Life of William of Waynflete*, pp. 7, 15, 26, 34; *Dict. Nat. Biog.*
[111] Nicholas, *Proceedings*, vi, 165, 167, 169, 171 *et passim.*
[112] *Foedera*, xi, 384. [113] *Cal. Pat. Rolls, 1452–1461*, p. 241. 12 July, 1455.

priate emulation of his predecessor was naturally the establishment of a similar college at Oxford. So, for the study of theology and philosophy, Waynflete founded the college of St. Mary Magdalen, "commonly called Maudeleyn Halle." Letters patent to this end, providing for a president and fifty scholars and for the acquisition of property in mortmain to the value of £100 were issued on 6 May, 1448, shortly after the founder became bishop of Winchester.[114] In the autumn of 1456, just before he became chancellor, new provision was made for the college;[115] and soon afterward a new site was secured with authorization to acquire property to the value of £500 annually.[116]

To the years 1441–1456, therefore, belongs the foundation of Henry VI's College at Cambridge and Magdalen College, Oxford, both in their beginnings closely supervised by the bishop of Winchester. He must have drawn up the statutes of Magdalen at about the time that he was given power in 1455 to reform the statutes of King's. The papal assent to the acquisition by Magdalen of the lands of the hospital of St. John notes that the new college is founded for secular clerks and other ministers who shall study theology and philosophy, and some of whom shall at the expense of the college teach publicly all who wish to study these subjects.[117] But there is evidence that theology and philosophy were interpreted liberally. Lawrence Humphrey, who was president of Magdalen from 1561 to 1589,[118] says that Waynflete opened three schools in order that the seeds of Greek and the humaner letters might be sown in different parts of the kingdom.[119] Thus sixteenth-century tradition recorded

[114] *Cal. Pat. Rolls, 1446–1452*, pp. 152, 171.

[115] *Ibid., 1452–1461*, p. 324. Lands and rents to the value of £100 might be acquired in mortmain and the priory of Luffield, Norths., with all its possessions was made over in frank almoign. 27 September, 1456.

[116] *Ibid.*, p. 343. On 27 October, 1456, the master and brethren of the hospital of St. John the Baptist without the East Gate of Oxford were authorized to grant hospital, site and possessions to the president and scholars of Magdalen (*ibid., 1467–1477*, pp. 63–64). Papal assent was given on 14 March, 1458 (*Cal. Pap. Reg.*, xi, 69).

[117] *Ibid.* [118] LeNeve, iii, 562.

[119] "Nam hoc consilio Illustrissimus fundator et institutor Collegii vestri scholam Vuinflettensem, Brackliensem et vestram domi celeberrimam extrui et aperiri voluit, ut diversis regni locis Graecarum et humaniorum literarum semina sparsa . . . excrescerent." Laurentius Humpridus, *Epistola de Graecis Literis et Homeri Lectione* . . . in Hadrianus Junius, *Copiae Cornu* . . . (Basle, 1558). Quoted carelessly by Chandler, *op. cit.*, p. 267.

Waynflete's provision for the study of Greek at Magdalen. Such tradition is supported by the entry on the issue roll;[120] for, with evidence that Waynflete paid ten marks in 1455 or 1456 to a needy refugee before he was assured of repayment, it is not rash to infer that in acting as patron to the Greek visitor he had in mind the retention of his protégé to be instructor in Greek at his new college. Emmanuel's later connection with Neville, and through Neville probably with Oxford, supports the inference.

Another thread connects Emmanuel with the Oxford colleges of which Waynflete was respectively fellow and founder. New was the college of which Grocyn became a fellow in 1465 and Magdalen the one to which he came as divinity reader about 1481.[121] If Emmanuel was at Oxford at some time during the two decades after 1456, it was probably from him rather than from Vitelli that Grocyn learned the elements of Greek. Our information about Grocyn's life, however, is so slight that it has to be extended from our somewhat fuller knowledge of his books.

After Grocyn's death in 1521 Linacre drew up a catalogue of these, most of them being printed books and most of them in Latin.[122] Eight named Greek manuscripts, however, as Linacre's attached accounts show, were bought for Corpus Christi College, Oxford, by its enlightened master, Thomas Claymond.[123] His note about the purchase from the former owner appears in seven of them.[124] In addition to the purchase, Claymond made a gift of two of Grocyn's Greek manuscripts to the college.[125] In these and in ten other Greek manuscripts which he likewise gave,[126] he uses a formula different from the one which records his purchases, asking now the reader's prayers for himself as giver. Possibly some of the ten as well as the two

[120] Above, p. 83. [121] Burrows, *op. cit.*, pp. 334, 336. [122] *Ibid.*, pp. 319–324.

[123] *Ibid.*, pp. 328–329.

[124] H. O. Coxe, *Catalogus Codicum MSS. qui in Collegiis Aulisque Oxoniensibus hodie Adservantur* (Oxon., 1852), ii, MSS. of Corpus Christi College, nos. 98, 99, 100, 104, 109, 117, 158. In the eighth, no. 106, there is no note about the purchase but the former owner is said to have been William Grocyn.

[125] *Ibid.*, nos. 23–24, 76–77.

[126] *Ibid.*, nos. 19, 21, 25, 27, 75, 80, 90, 96, 112, 113.

came from Grocyn.[127] If so, an inference which follows from the character of one of the two will be strengthened.

For one of the two is a lexicon of Suidas and is one of the manuscripts written in part in the unusual hand now identified as that of Emmanuel of Constantinople.[128] Another manuscript in the same hand, a psalter, is among the ten which Claymond gave to the college and which, in whole or in part, may have been Grocyn's.[129] One, therefore, and perhaps two, of Emmanuel's transcripts came into the hands of Grocyn before they passed into the library of Corpus Christi. The one about which there is no doubt is a Greek lexicon, than which no more appropriate text could have passed from teacher to pupil. Since the Suidas was copied in part from an original once in Grosseteste's possession, the copying may well have been done at Oxford. Grosseteste gave his books to the Franciscans there and they probably still had most of them in the fifteenth century.[130]

Mention of this monastery suggests another hypothesis. It will be remembered that Dr. Harris has shown that the Caius College psalter in Emmanuel's hand belonged to Richard Brynkley, the last provincial minister of the Franciscans in England, and has surmised that the Leicester Codex did also. He was inclined, despite the apparently Italian origin of the paper used, to suggest that they were written in the scriptorium of the Franciscans at Cambridge.[131] He points out, however, that another of Brynkley's books, the Caius gospels, was borrowed from the Franciscan convent at Oxford and not returned.[132] Is it not conceivable that the Caius psalter and the Leicester Codex (if it once was Brynkley's) came in the same way from the same place? If they did, four of Emmanuel's

[127] In the two Grocyn's name is not *in the formula* as it is in the formula of the seven MSS. purchased for the college. In other books of his it may not have been written. If it was not and if some of the ten were his but without it, there is nothing in Claymond's formula by which to identify them.

[128] *Ibid.*, nos. 76–77. [129] *Ibid.*, no. 19.

[130] F. S. Stevenson, *Robert Grosseteste* (London, 1899), p. 86; James, *Greek MSS. in Eng.*, pp. 342–343.

[131] Cf. above, p. 31; *Origin of Leicester Codex*, pp. 30, 61.

[132] On its first page is written "Iste liber est de con[ventu] fratrum minorum Oxonie omissus et accomodatus fri. Ric. Brynkeley Magistro" (*ibid.*, p. 18).

manuscripts can by somewhat tenuous threads be connected with Oxford.

Further conjectures about two others may be hazarded. In the library of Corpus Christi, Cambridge, there is a fine Homer probably written, Dr. James thinks, by the scribe of the Leicester Codex but with a different pen. He suggests that it may have been the work of Emmanuel before he came to England. Since it is said to have come from St. Augustine's, Canterbury, he further surmises that Christ Church was really its earlier home and that it may have been brought from Italy by Prior Selling.[133] Now, however, that Emmanuel is known to have been in England before 1468, it is not necessary to make this surmise. Instead, Selling, who was studying at Oxford in 1458 and probably for some time before and after that year, may have known the Greek scholar there. From the contact may have come the young man's eagerness to go to Italy, and from it his first interest in Greek. Later he may have continued the acquaintance. In 1473 he wrote in intimate vein thanking the warden of New College, Thomas Chandler, for pecuniary assistance in consecrating a chapel at Canterbury College, Oxford, and in maintaining Christ Church monks there.[134] His close relations with the two colleges would have given him opportunity for intercourse with Emmanuel, if the latter continued to reside at Oxford. Thus the Homer may have been got directly from the Greek scribe, if, indeed, he wrote it.

One of the psalters written in Emmanuel's hand may also have followed this conjectured route of the Homer. To-day it is in the library of Trinity College, Cambridge, many of whose manuscripts came from Christ Church, Canterbury, through the hands of Archbishop Whitgift and Dean Nevile.[135] There is no reason why it may not have passed through Selling's hands.

[133] James, *Cat. MSS. in Corp. Chr. Coll.*, i, 166. He discusses the conjecture that the manuscript was identical with a "stately" Homer said to have been transcribed in Italy for Theodore Gaza, who died in 1478.

[134] *Litt. Cantuar.*, iii, 260, 267.

[135] M. R. James, *Western Manuscripts in the Library of Trinity College, Cambridge* (Cambridge, 1900–04), iii, 197; *The Ancient Libraries of Canterbury and Dover* (Cambridge, 1903), p. lxxxiii.

Of the eight or nine MSS. written by Emmanuel, and now in England, six may thus by conjecture be connected with Oxford. One or perhaps two were among Grocyn's books; one and perhaps another may have come into Selling's possession; one and perhaps two, which can be traced to the Franciscan convent at Cambridge, may have been got by Brynkley from the Minorites at Oxford. About the provenance of the Durham Plato and Aristotle and of the Suidas now in the British Museum nothing has been learned.

Apart from his use of Grosseteste's Suidas it is not clear where Emmanuel made his copies. Dr. Harris is inclined to connect the Plato and the Homer with Italy, and Dr. James concurs as to the latter. The water marks of the paper used in these volumes seems to be Venetian.[136] But Venetian paper was imported into England, as the customs accounts show.[137] On the other hand it is not improbable that the Greek scholar journeyed to and from Italy and made copies there.[138]

Emmanuel of Constantinople, thus recreated from fragments of information about him, stands forth as the first Greek scribe and possibly as the first teacher of Greek in fifteenth-century England. In 1455–1456 a gift of ten marks from the crown was conveyed to him by a member of the privy council, the bishop of Winchester. At the moment, the bishop was intent on founding Magdalen College and is said to have provided for the study of Greek there. In 1468 Emmanuel transcribed a Greek manuscript for the archbishop of York, then chancellor of Oxford, and at one time or another transcribed some eight or nine other manuscripts now in English libraries. Certain of these were at one time Grocyn's; others may have been Selling's. Both Grocyn and Selling were at Oxford in the decade after

[136] Harris, *Origin of Leic. Codex*, p. 9; *Ferrar Group*, pp. 32–33; James, *Cat. MSS. Corp. Chr. Coll.*, p. 166. The Leicester Codex, the Aristotle and the Plato are written on quires which are partly of vellum, partly of paper. The Homer is wholly paper. The Corpus Christi Suidas and psalter are partly vellum, partly paper, as is the British Museum Suidas. Only the Caius and Trinity psalters are wholly vellum.

[137] P.R.O., E. 122, 77/4. A. Capello imported in his own galley 18 bales of paper worth £24 (10 Oct., 1442); A. and F. Cornero imported in the galley of J. Capello 15 bales of paper worth £20 (22 Nov., 1445).

[138] Dr. Harris thinks that the illuminated initials of the Trinity psalter are in an Italian hand (*Ferrar Group*, p. 27), but Dr. James thinks the scribe English (*Cat. MSS. Trin. Coll.*, p. 199).

1456 and both became eager to learn Greek. Though Selling soon went to Italy and may have learned the language there, Grocyn actually acquired some knowledge of it before he set out for Italy in 1488. That Cornelio Vitelli was his tutor rests on no other evidence than that Vitelli taught *bonae literae* at Oxford as early as 1475. The simplest hypothesis on which to explain all known facts is that Emmanuel was resident at Oxford at one time or another, was associated with Magdalen College, or possibly with New, transcribed Greek manuscripts of which several remain, and taught the elements of Greek to such young men as Selling and Grocyn. Perhaps Vitelli, if he did give instruction in Greek, was invited to Oxford as his successor.

In support of this hypothesis we have one hint that there existed a rudimentary interest in Greek at Oxford soon after 1456. In the years 1460–1463, the official secretary of the university, a certain John Farley, amused himself by signing his name to official documents in Greek characters.[139] Again, on the last page of a twelfth-century Greek psalter, clearly once the property of Grosseteste and now at Corpus Christi, Cambridge, he wrote his name in the same way.[140] Of course, nothing is easier than to learn to write one's name in Greek; but the fancy and the practice, appearing at precisely this time, may indicate that toying with Greek was becoming fashionable at Oxford towards 1460.

What may credibly be conjectured about the first study of Greek in fifteenth-century England extends, as matters stand, little farther than the items grouped round the name of Emmanuel of Constantinople. There were, however, Englishmen other than Holes and Grey, Waynflete and Neville, Selling and Grocyn, who were their contemporaries and who, as devotees of classical culture, were not insensible to Greek. To ascertain more precisely the circumstances under which the new study was taken up in England attention should be given to the careers of John Free, or Phreas, John Tiptoft, earl of Worcester, John Gunthorp and Robert Fleming. The first, a protégé of

[139] *Epist. Acad. Oxon.*, ii, 861–874.

[140] James, *Cat. MSS. Corp. Chr. Coll.*, ii, 422.

Grey, attained distinction and wealth in Italy before his death there in 1465. His rendering into Latin of Synesius *On Baldness* was the first translation from the Greek to be made by a fifteenth-century Englishman. Tiptoft, highly eulogized by Leland, heard lectures at Padua, brought tears of joy to the eyes of Pius II when addressing him in 1459, and collected in Italy a fine library later given to the University of Oxford. Gunthorp, after acquiring a knowledge of Greek in Italy and serving Pius II as papal chaplain, returned to England by 1465 to enter upon an ecclesiastico-political career, which in time made him dean of Wells and lord privy seal. From 1467 to 1472, during which years he was either secretary to the queen or almoner to the king, he was master of King's Hall, Cambridge. What influence he may have had upon learning here is unknown but he seems to have demonstrated his own familiarity with Greek in the composition of a rhetoric which at times made use of Greek words. Fleming, after hearing the lectures of Guarino, was for several years from 1455 king's proctor at Rome before he returned to his deanery at Lincoln. Leland ascribes to him a Graeco-Latin dictionary and this should place him with Selling and Gunthorp as a scholar returning to England towards 1470 and acquainted in a measure with Greek.

What is striking about the Englishmen of 1447–1488 who, through sojourn in Italy or otherwise, early won repute as scholars, is the high place which they attained in church and state. It is not likely that in their later years they became altogether insensible to the enthusiasm of their youth. That their libraries came to the universities or to the colleges is clear; some of them were patrons of Emmanuel; but in what other ways their humanism bore fruit is still to be ascertained.

HOWARD L. GRAY

THE COMMUNAL MOVEMENT IN SYRIA IN THE THIRTEENTH CENTURY

In the history of the rise of the communal movement, the period of the crusades is universally accepted as the greatest age for the development of communal institutions, and the crusades themselves are generally considered to have given a powerful impetus thereto. When we turn to the East, however, we find that while the most important part of the life of the Levantine principalities founded by the crusaders was in the cities, the communal movement as such never took firm hold in any of them, and some historians of the crusades have gone so far as to assert that there were never any communes in Syria. While others, such as Rey and Luchaire, tacitly admit the existence of communes, no one has to my knowledge made any study of the communes which developed in the crusading states in the thirteenth century, and it is the purpose of this essay to consider the reasons why the communal movement failed in general to develop in Syria, at the same time pointing out that communes, in the sense of sworn associations for municipal government, did exist in at least three of the cities of Frankish Outremer.

Several causes explain the lack of communal development in the cities ruled by the crusaders. One was undoubtedly the extremely precarious position of the cities and their constant need for military protection, a need which made the burgesses, who wished to expend their efforts on commerce and industry, more willing to leave the government of their cities to those lords who defended them. When the communes did develop, it was because defence and protection were not provided by the lord of the town. Thus Antioch founded her commune in 1194 when Leo II of Armenia was attacking the city and when Bohemond was a prisoner. The commune of Acre was organized in 1231 to strengthen the resistance against Richard Filanger, Frederick's *bailli* in Syria, and was a part of the general resistance of the Ibelin faction against the Imperialists;

when peace was made between the Ibelins and Frederick, the commune was suppressed. The third commune, that of Tripoli, was organized in 1288, in the last year of the existence of the state when the city was already making its last stand against Kelaoun. It was designed to control the city during the struggle for the succession and was the weapon of Bartholomew de Gibelet against Lucie de la Pouille. Of the three only Antioch had a continued existence as a commune, and all three may be considered as having originated in a combination of the inhabitants to defend themselves against immediate danger.

Another cause for the lack of communal institutions in Syria was the existence of the extra-territorial communities of Venetians, Genoese, Pisans, and Marseillais in the larger maritime cities; but it is worthy of note that, when the Syrian Franks did establish communes, they modelled them after the institutions of these self-governing settlements, to which the name commune is applied in the Assises of Jerusalem, and which did indeed transplant into the East institutions of the communes of which they were colonies. For the Italian and later the Provençal cities had, in return for the assistance rendered by them in the conquest of the country or in its defence, received quarters in the coastal cities with practical autonomy and extensive commercial privileges.[1]

So general was the extra-territorial Italian colony, with its own courts and its private jurisdiction, that when the word

[1] See in general W. Heyd, *Histoire du commerce du Levant*, tr. by F. Raynaud, 2nd ed. (Leipzig, 1923), i, 129–190, 310–359 *passim*; E. G. Rey, *Les colonies franques de Syrie* (Paris, 1883), pp. 68–75; H. Prutz, *Kulturgeschichte der Kreuzzüge* (Berlin, 1883), pp. 376–399; A. Schaube, *Handelsgeschichte der romanischen Völker* (Berlin, 1906), pp. 190–223; Count Beugnot, *Assises de Jérusalem* (Paris, 1841–43), in the *Recueil des historiens des croisades: Lois*, i and ii, introduction to vol. ii, *passim*.

The most extensive grants were made to the Venetians by a treaty of 1123 (given in G. Tafel and G. Thomas, *Urkunden zur älteren Handels- und Staatsgeschichte der Republik Venedig* (Vienna, 1856–57), i, 79–90). Conrad de Montferrat extended the powers of all the Italian colonies in his attempt to purchase support for his candidacy to the throne. See R. Röhricht, *Regesta Regni Hierosolymitani* (Innsbruck, 1893, with Additamentum, 1904), nos. 704, 705, 665, 666, 667, 668, 674, 675, 676, *et al.* In 1243 Marsilio Georgio, the Venetian *bailli* in Syria, enumerated the Venetian possessions held in Syria at that time (Tafel and Thomas, *op. cit.*, ii, 351–398). The Genoese possessions were enumerated for the years 1249–1250 (*Archives de l'Orient latin*, (Paris, 1881–84), ii B, 215–224). While neither of these lists shows everything that the Italians held, they are representative of the types of holdings and franchises.

commune appears in the legislation, documents, or chronicles of Outremer, it usually refers to the Italian organization within the Syrian city, and references in the Assises are to the Venetian commune at Acre, the Genoese commune at Tyre, etc.

The existence of these foreign settlements inevitably worked against the unity of the Syrian city and prevented to a certain extent the development of the corporate idea of the municipality, the essential element in a commune.

A third deterrent to the organization of communes was the rather preferred position of the Frankish burgesses in Syria. The crusades had caused some lowering of the social barriers among their participants; serfs, free peasants, and burgesses all came closer together and were eventually fused into a single class of non-noble Franks, who were conscious of themselves as opposed to the nobles on the one hand and to the native Syrian, Greek, Armenian, and Moslem peasants and townspeople on the other. The Frankish nobles, the Frankish burgesses, and the natives had their own courts and their separate codes of law. Burgess tenure was a specific tenure of the Frankish burgesses, and they were tried by the viscount and their own peers in the *Cours des Bourgeois*.[2]

This realization of their apartness from their neighbors united the Franks of Outremer to an extent not found in the West, and while the history of the Latin states is a fairly continuous chronicle of strife within the turbulent baronage and among the various Italian colonies, the nobility and burgesses did on the whole coöperate. The frontier society which developed among the Syrian Franks did not make the sharp differentiation between noble and non-noble which was found in the West; and the wealth and power of influential merchants and traders tended towards equalizing the upper middle class with the nobility. Burgesses could easily become

[2] See Beugnot's introduction to vol. ii of the *Assises de Jérusalem*. The position of the Frankish burgesses is treated in Rey, *op. cit.*, pp. 57–68; Prutz, *op. cit.*, pp. 123–139, 334–354; G. Dodu, *Histoire des institutions monarchiques dans le royaume latin de Jérusalem* (Paris, 1894), pp. 269–290; Beugnot, "Mémoire sur le régime des terres dans les principautés fondées en Syrie par les Francs à la suite des croisades," *B.E.C.*, 3rd series, iv–v (Paris, 1854–55); P. Christin, *Étude des classes inférieures d'après les Assises de Jérusalem* (thesis, Poitiers, 1912).

knights, although there is no provision in the Assises corresponding to that of Saxon England that the merchant who had thrice fared across the sea was thenceforth of thegn-right worthy. The constant wars caused a destruction of the nobility which necessitated recruitment from the lower classes. When Balian d'Ibelin went to Jerusalem after the disastrous battle of Hattin he found but two knights remaining in the city and so created sixty knights from the burgesses to replenish the ranks.[3]

Several charters have been preserved in which burgesses acted as witnesses, and, in some at least, as witnesses representing the burgesses as a class. A charter of Foulque of 1135 and one of Baldwin III of 1155 carry the names of burgesses, signing under the heading *de burgensibus* and coming after the knights who signed as *de baronibus* or *de hominibus regis*.[4]

There are several instances to prove that in the absence of the lord who held the city in fief the citizens of a town acted in what was almost a corporate manner. However, it should be borne in mind that in those cases the burgesses so acted in the absence of the nobles, and that normally it was the nobility of the city who acted for the whole community. Thus the men of Antioch summoned Tancred to rule over them during the captivity of Bohemond I in 1101, but it must here be assumed that it was the nobility of Antioch who issued the invitation.[5] When Saladin was besieging Ascalon in 1187 it was the burgesses of the city who negotiated the surrender of the city in return for the liberation of the captive king Guy de Lusignan.[6] Likewise the citizens of Jerusalem started the negotiations with Saladin, though when Balian d'Ibelin arrived, he took command of the city and ordered the capitulation.[7]

Some restrictions were placed upon the burgesses in the East, but on the whole their position was most advantageous.

[3] *Chronique d'Ernoul et de Bernard le Trésorier*, ed. L. de Mas Latrie (Paris, 1871, *Société de l'histoire de France*), p. 175. Cited hereafter as *Ernoul*.

[4] E. de Rozière, *Cartulaire de l'église du Saint-Sépulcre* (Paris, 1849), nos. 56, 86; Röhricht, *Regesta*, nos. 157, 299. See also Dodu, *op. cit.*, pp. 164–165, 271–275.

[5] Fulcher of Chartres, *Historia Hierosolymitana*, book II, chap. vii, in *Rec. hist. cr.: Historiens occidentaux*, iii, 384; H. Hagenmeyer, "Chronologie du royaume de Jérusalem," no. 538 in *Revue de l'Orient latin*, ix, 402 (periodical cited hereafter as *Rev. Or. lat.*); Rey, "Histoire des Princes d'Antioche" in *Rev. Or. lat.*, iv, 334.

[6] *Ernoul*, pp. 184–186, "Car il n'avoit nul chevalier." [7] *Ibid.*, pp. 217–225.

According to the laws of Cyprus in the fourteenth century the burgesses could not marry their daughters to nobles, but the wealthy burgess could fairly readily become himself a member of the nobility, as has been indicated above.[8] Dodu further asserts that the burgesses were unable to hold fiefs, but this was true only in theory and many fiefs were actually held by burgesses.[9]

The ordinary Syrian city was ruled by the king or by its lord, and the titles of the Outremer nobility were derived from their cities. The lords of Tyre, Jaffa, Ascalon, Beirut, Arsur, Caïphas, Caesarea, Rama, and Sidon were among the great barons of Jerusalem. Ibelin lists thirty-seven towns where were established courts for the bourgeoisie within the principality of Jerusalem (i.e. not including the principality of Antioch and the counties of Tripoli and Edessa) and of the thirty-seven, four, Jerusalem, Acre, Daron, and Neapolis, belonged to the king while the other thirty-three were in the hands of private lords. The court was under the control of the lord and administered by his viscount.[10]

[8] "Bans et Ordonnances des Rois de Chypre," ch. v, in *Assises de Jérusalem*, ii, 359.

[9] Dodu, *op. cit.*, makes this statement on the authority of Jean d'Ibelin (*Le Livre de Jean d'Ibelin* in *Assises de Jérusalem*, vol. i, cited hereafter as *Ibelin*), and cites ch. ccxlix (p. 399) where Ibelin says that fiefs may not be sold to churches, communes, or "à home qui ne puisse fié acheter" (a line which is omitted in manuscript *C* of Beugnot's edition). The *Livre au Roi*, ch. xlv (in *Assises de Jérusalem*, i, 640), which is an older compilation of Outremer law than Ibelin, says that fiefs may not be held by clergy, churches, members of communes (here taken to mean Italians), Syrians, or by men unable to become knights — "ni à home qui ne soit chevaler ou destraite à chevaler." Thus technically a burgess as such could not hold a fief, but tenure of a noble fief ennobled the holder on some occasions. Thus Plebanus, a Pisan burgess, purchased the hand of the heiress of Botron from Raymond of Tripoli, her overlord, for 1000 besants and became through his wife the lord of Botron: "Brevis Regni Ierosolymitani Historia" in *M.G.H., Scriptores*, xviii, 52. Beugnot, *B.E.C.*, 3rd series, iv, 52, says that while the laws forbade the sale of fiefs to burgesses there was little effort made to enforce them, and that they were not enforced is sufficiently proved by the documents recording sales to burgesses cited in Röhricht, *Regesta*.

The church was also forbidden to purchase fiefs according to the *Livre au Roi*. But this rule was changed to mean prohibition of sale without the consent of the suzerain of the seller. The cartularies of the Templars, Hospitallers, of Saint-Ṣépulcre, and others attest the quantities of lands given and sold the church. On this point see the chapter on the relations of the kings of Jerusalem to the church in my *Kingship in the Latin Kingdom of Jerusalem* which will be published shortly by the Ohio State University, Columbus, Ohio.

[10] *Ibelin*, pp. 419–421, ch. cclxx. A typical entry runs "Le seignor de Cayphas a court et coins et justise. Et a Cayphas a court de borgesie et justise." Though in

The lord's viscount also led the troops which the town was held to supply in times of emergency. Two types of service were levied against the cities in time of special need: knight service due from holders of money-fiefs in the revenues of the towns, and sergeant service due from the town itself, apparently from the burgesses.[11] Thus *La cité d'Acre deit sergenz VC* which are owed by the city quite apart from the eighty knights who hold fiefs against the revenues of the city, or the one hundred and fifty sergeants owed by the bishop of Acre. The revenues of Tyre supplied money-fiefs for twenty-eight knights, while the city itself supplied one hundred sergeants and the archbishop supplied one hundred and fifty sergeants.[12]

This assessment of sergeants against the cities indicates that they were thus considered for some purposes as corporate units. But they were in no sense communes. They were owned by a lord and the sergeants supplied by them served under their lords.

Only on three occasions did the inhabitants of Syrian cities organize themselves into definite communes. Even then the leadership in the communal movement was taken by nobles, and the movement was by no means a purely popular one.

The oldest commune in Outremer was that of Antioch which dates from 1194. In that year Bohemond III was defeated and taken prisoner by Leo II of Armenia, who forced his captive to

some cases the term *seigneurie* is used instead of *seignor* it is I think safe to presume that the terms are interchangeable. Royal courts are referred to as the courts of the chief *seignor*. The court of Lydda is attributed to the bishop rather than to the bishopric. This I feel proves definitely that the burgess courts were controlled by the lords. D. Hayek, *Le droit franc en Syrie* (Paris, 1925), pp. 75–94, implies this opinion though at times he seems to think them royal courts.

[11] *Ibelin*, pp. 422–427, chs. cclxxi–cclxxii. The first list is that of all the knight's service due in Jerusalem and includes knights due from holdings in the towns. The second lists sergeants to be supplied in cases of special need and includes troops from churches, monasteries, and the cities themselves.

[12] It is worthy of note that three of the knights from Tyre were owed by the Venetians.

Beugnot (*op. cit.*, p. 51) says that the sergeants were apportioned according to the wealth of the cities, and that there was no question of the land owing service. When the crisis was passed these sergeants went home. The Italian communes were required to supply military assistance to defend the cities in case they were attacked, but need not supply troops for an offensive campaign. The three knights which the Venetians owed from Tyre were undoubtedly due from extra fiefs which they had gained and which did not come within the sphere of their extra-territorial jurisdiction.

cede his principality of Antioch to him. Hayton of Souissan was sent by Leo to occupy the city with Armenian forces. But the men of Antioch rose in arms against the Armenian occupation and drove the Armenians out of the city. Then, under the leadership of Amaury the Patriarch, all assembled and ordained a commune, which they had never had before. The commune then sent for Raymond, the eldest son of Bohemond, to act as *bailli* of Antioch during his father's captivity.[13]

The commune of Antioch, founded thus to oppose invasion, remained an important factor in the government of the city throughout its control by the Frankish princes. In 1207 Innocent III wrote to Bohemond III and to the mayor of the commune threatening excommunication if they persisted in adhering to a schismatic patriarch.[14]

In 1208 Bohemond III died and Leo II claimed the principality for his great-nephew Raymond Rupin, Bohemond's grandson through Raymond his eldest son who had died before his father. Raymond had married Alice, the niece of Leo, and their child Raymond Rupin had been brought up in the court of his maternal great-uncle. One party in Antioch supported the claims of Raymond Rupin who was the legitimate heir to the throne. But Rupin on the throne of Antioch would mean Armenian control of policy and a large party turned to Bohemond of Tripoli, the cadet. Bohemond came to Antioch where he "sona la canpane de la comune et assembla toute la gent, chevaliers et autres bons homes" and secured their recogni-

[13] *L'Estoire de Eracles Empereur* being the continuation of William of Tyre (cited hereafter as *Eracles*), *Rec. hist. cr.: Hist. occ.*, ii, 208–209, alternate version. The first revolt was made by "Les homes du prince," obviously the knightly vassals. The commune is described — "Tantost furent assembles comunaument en la maistre yglise ... et ordenerent entr'iaus et firent comune, la quele devant n'avoient point eu."

Rey, *Rev. Or. lat.*, iv, 384–385 devotes two pages to the discussion of this commune — the longest treatment I have discovered in any modern author.

[14] Potthast, *Regesta Pontificum Romanorum* (Berlin, 1874–75), i, 283, no. 3314; Rey, "Les dignitaires de la principauté d'Antioche" in *Rev. Or. lat.*, viii, 138. As the pope refers to Bohemond only as count of Tripoli it would seem that Antioch was governed largely by the commune. This same observation holds good for the entire papal correspondence during the struggle between Bohemond IV and Raymond Rupin.

See A. Luchaire, *Innocent III. La question d'Orient* (Paris, 1911), p. 38, for the troubles of the Pope with the Antioch commune.

tion as heir.[15] But in the course of the war which followed, Pierre d'Angoulême, the Latin Patriarch of Antioch, supported the claims of Raymond Rupin and carried the commune with him. Bohemond seized the Patriarch and defeated and crushed the commune, without however disbanding it.[16] Eight years later Acharie, the seneschal, was mayor of the commune, and he betrayed the city into the hands of Raymond Rupin.[17] In 1219 when William Farabel, the constable of Tripoli, surrendered Antioch back to Bohemond IV, Robert Mansel, the constable of Antioch, was mayor of the commune.[18]

The commune of Antioch continued throughout the Frankish control of the city, and it was the commune, in conjunction with the *bailli* of the prince, which governed the city during the residence of Bohemond V and Bohemond VI in Tripoli (1233–1274).[19]

The second Syrian commune was that of Acre, founded in 1231 when Richard Filanger, Frederick II's *bailli* in the east, was at war with the barons of Jerusalem over Beirut which he had seized from Jean d'Ibelin. The basis of the commune was the old *Frarie de Saint-André*, a religious brotherhood of the burgesses of Acre. The *Frarie* was operating under a charter "Otroiée dou roi Baudoin et confermée par son prevelige" which had been confirmed by Henry of Champagne.[20]

When Filanger seized Beirut from Ibelin, the latter appealed to the king of Cyprus and the barons of Jerusalem for assistance and a party was formed. Balian of Sidon and Eudes de Montbeliard, the *baillis* recognized by the barons, were in Italy

[15] *Eracles*, p. 313.

[16] *Ibid.*, pp. 313–314; "Les Gestes des Chiprois" (cited as *Gestes*), in *Rec. hist. cr.: Documents arméniens*, ii, 664, paragraph 65; Rey, *Rev. Or. lat.*, viii, 138. The Patriarch was imprisoned without water and killed himself by drinking the oil out of his lamp in an effort to slake his thirst.

[17] *Gestes*, p. 665, par. 74. Acharie appears with both titles on a charter of Rupin given in Victor Langlois, *Trésor des chartes d'Arménie* (Venice, 1863), p. 137, no. 15; Rey, in *Rev. Or. lat.*, iv, 384–385; viii, 122–123.

[18] *Gestes*, p. 665, par. 74. "Mansellus constabularius et maior Antiochiae" witnessed a charter of Rupin of March 1219 (given in E. Strehlke, *Tabulae Ordinis Theutonici* (Berlin, 1869), pp. 41–42, no. 51; Röhricht, *Regesta*, no. 921); Rey, *Rev. Or. lat.*, viii, 119.

[19] *Rev. Or. lat.*, iv, 400–401.

[20] *Eracles*, p. 391. Beugnot, *Assises*, ii, introduction, pp. xxxi–xxxii. The originals have not been preserved.

at this time at the court of the emperor.[21] Jean d'Ibelin was thus the acknowledged leader of the Outremer nobility, and on his behalf, and as a protest against the action of a *bailli* whom they refused to recognize, the barons demanded the surrender of Beirut by Filanger. Upon his refusal they joined the *Frarie* and when Ibelin came to Acre soon thereafter, he too was sworn into the brotherhood.[22] It was at this time, when the barons joined with the brotherhood, that the commune must have been organized.

There are only two principal authorities for the events in Acre at this period, the *Eracles* and the *Mémoires de Philippe de Novare;* the latter is to be preferred as having been written by one more closely connected with the events described. The *Eracles* describes the occurrence: "fist assembler les gens, chevaliers et borgeis et le pueple, et devant toz jura la frarie de Saint André ou letrin de l'iglise," and then goes on to tell how Ibelin addressed the people and so stirred them that they rushed out and captured the imperial galleys which were wintering at Acre.[23] There is no mention of a commune in the *Eracles* account. But Philippe de Novare, in describing the events, says that Ibelin so stirred the people by his many reasons why they should no longer tolerate the rule of the emperor "que il le firent maire de la comune d'Accre." [24]

The commune of Acre would thus have been organized by the coalition of the bourgeois *Frarie* with the nobles and by the election of Ibelin as their mayor. The step was an easy one. The members of the *Frarie* were a sworn corporation and by changing to a commune they did not greatly alter their status. The nobles were included but the *Frarie* was the basis of the commune. The use of the term *commune* by Jean d'Ibelin of Jaffa, in his account of the events of 1233, confirms Novare's

[21] They appear as witnesses on a charter of Frederick at Ravenna: Huillard-Bréholles, *Historia Diplomatica Frederici Secundi* (Paris, 1852–61), iv, 279.

[22] Huillard-Bréholles, *op. cit.*, vol. of preface, p. cccxlv, says that the barons "S'affilièrent à la confrérie bourgeoise de Saint-André" and that Ibelin later joined it. He does not recognize the existence of a commune in Acre in this period at all.

[23] *Eracles*, p. 395. Röhricht, *Geschichte des Königreichs Jerusalem* (Innsbruck, 1898), p. 816. This is the account followed by Huillard-Bréholles.

[24] Philippe de Novare in *Gestes des Chiprois*, par. 170.

employment of the term and gives adequate proof that it was a commune that was here formed and not merely an extension of the *Frarie* to include non-bourgeois members.[25]

After the defeat of the Imperialists at Cerines, Frederick sent to Syria the bishop of Sidon to make a compromise with the Ibelin-Cypriot faction. His proposal was that Filanger should be continued as *bailli* in Tyre and that Philippe Maugasteau should be *bailli* in Acre. According to Novare the barons in Acre, under the leadership of Eudes de Montbeliard and Balian of Sidon (the *baillis* whom Frederick had appointed before he left Syria and who were recognized by the barons as legitimate *baillis*) were about to accept the new appointments and to take oath to the appointees when Jean of Caesarea, nephew of Jean d'Ibelin of Beirut, sounded the tocsin of the commune. When the *Frarie* heard this they rushed to arms and attacked the bishop and *baillis* with such force that the lives of these were saved only by the intervention on their behalf of the lord of Caesarea.[26] Jean d'Ibelin of Jaffa gives the same story but according to Ibelin it was Girot the Patriarch who read the letters from the emperor. Jean of Caesarea objected to the imperial violations of the old laws and customs of the kingdom, "si que y ot si grant remor que la campane dou comun sona et l'evesque [of Sidon] s'en parti et le seignor de Seete et le conestable demorerent ensi come il estoient sur le fait de la seignorie." [27]

While Ibelin omits the details of the riot both accounts agree in substance and both are by men who were living at the time and were intimately connected with those who participated in the events described. Both refer to the *campane dou comun* which should establish definitely the existence of the commune. Novare further tells how Jean d'Ibelin of Beirut returned to Acre the following year and was again elected mayor.[28]

[25] Ibelin in *Assises de Jérusalem*, ii, 399.

[26] *Gestes*, par. 205: "comanda a souner la campane de la comune. Quant a la frarie de saint André le sot, il furent as armes et crierent tuit: 'Muire! Muire!'"

Huillard-Bréholles (preface, p. cccxli) claims that Balian of Sidon was the only *bailli* in 1231. Yet in 1240 Montbeliard was *bailli* at Acre (*ibid.*, p. ccccliv).

[27] *Assises*, ii, 399. Bustron's *Historia* is almost a literal translation into Italian of Novare's account, and so is no longer considered an original source.

[28] *Gestes*, par. 206.

In letters of 22 September, 1235 and 21 February, 1236 Pope Gregory IX, who had come to terms with Frederick II, ordered the abolition of the commune at Acre. Gregory wrote the emperor concerning the terms of peace to be made between the barons of Jerusalem and the emperor, and in both letters advocated the suppression and dissolution of the commune, the destruction of the bell tower, and the dismissal of the consuls and captains who had taken office since the beginning of the trouble. The terms *cives et sindici Acconenses, communem, maiorem,* and *consulum* employed by the pope leave no doubt that the city was a definitely organized commune.[29]

In 1241 the chief barons made submission to the emperor, asking that Simon de Montfort, Earl of Leicester, be named *bailli* of the kingdom until Conrad should come to claim his throne. In the act of submission they agree that "osterons la campane et les conseles et les chevetaines de la commune, sauf ceaux qui esteient avant que l'emperere fuist seignor des païs." [30] There is not to my knowledge any later mention of the commune of Acre, from which it may be inferred that the barons kept their word in regard to the reduction of the commune, and that it was disbanded and turned back into the *Frarie.* In the great assembly of Jerusalem which granted Alice of Cyprus the *baillage* of the kingdom on 5 June, 1243 there is no mention of the commune, though Marsilio Georgio speaks of the *populares regni,* and the *Frarie de Saint-André* was represented.[31]

In 1276, Hugh, king of Jerusalem and Cyprus, abandoned his city of Acre and retired to Cyprus, because he was unable to

[29] *M.G.H., Epistolae Saeculi XIII,* i, 554–556, 571–573: "communiam dissolvant, campanam deponant et amoveant consules et capitaneos ab eis post ortam discordiam ordinatos . . . in civitatem Acconensem interdicti et in sindicos predictorum civium et nobilium et maiorum consulum universitatis Acconensis ac eorum fautores et consiliarios excommunicationis sententias promulgavit" (p. 554).

[30] *Archives de l'Orient latin,* i, 403; Röhricht, *Regesta,* no. 1099. The original of this act of submission was found among the papers of Richard of Cornwall who acted as mediator between Frederick and the barons. Earl Simon had several relatives in Syria, notably his brother Amaury, and also Philippe de Montfort, lord of Toron and Tyre, who was one of the signers of the submission.

[31] Marsilio Georgio, letter to Doge, in Tafel and Thomas, *op. cit.,* ii, 354–357; see also *Gestes,* par. 225–226; *Assises,* ii, 399–400; *Eracles,* p. 420; Mas Latrie, *Histoire de l'île de Chypre* (Paris, 1852–61), i, 323–324; Röhricht, *Geschichte des Königreichs Jerusalem,* pp. 855–857; Heyd, *Histoire du commerce,* i, 342.

make his authority felt in the city. The *Eracles* refers to his quarrels with "religions et as comunes et as fraeries" and describes struggles with Hospitallers, Pisans, "borjois de la terre," Genoese, "frairies et toutes autres manieres de gens." The communes here mentioned are those of the Genoese and Pisans, and the *Eracles* goes on to tell how, when they saw that Hugh was deserting the city, the Patriarch, master of the Hospital, "et partie des comunes" asked him to return. But Hugh departed leaving a *bailli*, viscount, *baillis* of the *Fonde* and *Chaîne* "et les autres offices si com il estioent devant." [32]

Nothing can be definitely proven from the omission of communal consuls and syndics from this list of officers, but the fact that they are not mentioned and that the city was governed by a *bailli* and viscount adds evidence to support of the idea that the commune was no longer in existence. The city was governed at this time by Eudes Pelechin, agent of Charles of Anjou and Sicily, and had there been a commune it is only reasonable to suppose that it would have ruled the city. Makrizi describes the anarchy which prevailed in Acre after the departure of king Hugh, due to the various and conflicting parties, and does not mention the commune.[33]

The third Syrian commune, that of Tripoli, was exceedingly short-lived and was organized only in the last year of the Frankish control of the city. In 1288, when Bohemond VII died, the barons of Tripoli asked the countess, his widow, for some one to govern them, and she appointed the bishop of Tortosa. When the barons heard whom she had selected they protested that he was their enemy and that they would have none of him. "Et adons ordenerent une coumune a l'henor de la beate Virge Marye mere de Dieu et ordenerent chevetaines et prevost et se qu'il lor sembla a faire et se maintindrent par yaus." [34]

When Lucie de la Pouille, sister of Bohemond VII, claimed the inheritance of her brother, the commune under the leadership of Bartholomew de Gibelet refused to allow her to enter

[32] *Eracles*, pp. 474–475.

[33] Makrizi in Michaud, *Bibliothèque des Croisades*, ed. Renaud (Paris, 1829), iv, 545.

[34] *Gestes*, par. 467; see also Röhricht, *Königsreich*, pp. 994 ff.

Tripoli unless she should recognize the commune, and when she endeavored to force her way in sent to Genoa for assistance. Benedetto Zaccaria who was in the east with a fleet turned to relieve Tripoli and assist the commune against Lucie.[35] A treaty was signed between Zaccaria and the commune, but the commune did not live up to its agreements and Zaccaria began negotiations with Lucie. But before anything had been accomplished Kelaoun had captured and sacked the city and the short-lived commune came to an abrupt end.[36]

The organization of the Syrian communes followed in general the model of those of western Europe, especially those of Italy. It was very largely from the communes of the Venetians, Genoese and Pisans in their own eastern cities that the Syrian Franks copied the institutions for the communes which they set up themselves. The citizens of Acre, Antioch, and Tripoli were all familiar with the Italian self-governing colonies in their midst and readily adopted their institutions. The admission of nobles to membership in the commune in Syria is indicative of the Italian practice of requiring the nobles to join the commune if they wished to enjoy the commercial privileges held by the city. There was a mayor, with the syndics, consuls, and captains. The bell tower, so familiar an attribute of the western commune, was found in the East also.[37]

One thing was, so far as we know, lacking in the East. No charters granting the privileges of the communes have been preserved, but the fact that none have come down to us is not proof of their non-existence. The charters of the Latin states which are preserved are chiefly those of the religious orders and establishments and of treaties with the Italian cities. As none of the communes survived and as we have no communal archives from any of the Syrian cities of this period we cannot say definitely that there were no charters.

But the sworn corporation of the commune did exist in Syria.

[35] *Gestes*, par. 468–469: *Jacobi Auri Annales Ianuenses*, in *M.G.H., SS.*, xviii, 322.

[36] *Jacobi Auri*, pp. 323–324; Michaud, *Bibliothèque*, iv, 561, from Aboumahassen and Aboulféda.

[37] For the communal institutions see the letters of Gregory IX and the act of submission cited above where they discuss what shall be abolished. Cf. A. Luchaire, *Les communes françaises* (Paris, 1890).

In his essay on "The Commune of London," J. Horace Round says, "The sworn commune . . . for the oath sworn by its members was its essential feature, — was the association or conspiracy, as we choose to regard it, formed by the inhabitants of town that desired to obtain its independence." [38] And this definition of a commune is thoroughly applicable to those of Syria, for in each case the commune was organized by the swearing together of the citizens.

Communes were of course not common in Syria and most of the towns as Tyre, Beirut, Arsur, Caesarea, Tiberias, and Jaffa were held and ruled by their lords. Their *Cours des Bourgeois* were under the presidency of their viscounts, and these towns were in much the same legal position as the *villes de bourgeoisie* of the Capetian domain.

Further it must be admitted that the eastern communes never reached the full development of autonomy, with the possible exception of Antioch in that period when the princes were resident in Tripoli. In Acre, after the transference of the capital to that city, there were always the royal officials, royal tax collectors, justices, and other officers. And even in Antioch the *bailli* of the prince ruled together with the officers of the commune.[39]

The presence of the Italian and Provençal quarters, and the immune possessions of the Templars and Hospitallers further detracted from that unity which was necessary to the full development of the commune. But, granting that the corporations which were formed in these three Syrian cities were not all that might be desired to fulfill the most exacting definition of the commune, granting that their period of existence was short and that their power was ephemeral, there is yet sufficient evidence [40] that in Syria in the thirteenth century,

[38] J. H. Round, *The Commune of London and Other Essays* (London, 1899), p. 223.

[39] A good description of Acre is given by Ibn Djubair in *Rec. hist. cr.: Historiens orientaux*, iii, 450–451. Cf. that given by Ludolph von Suchem, *Descriptio Terrae Sanctae* (London, 1895, Palestine Pilgrims' Text Society, no. 27), pp. 50–53.

[40] Beugnot's arguments that Ibelin did not know of the existence of any communes and that he refers only to the Italian settlements when he refers to communes, and that therefore no communes existed in Syria, have been considered sufficiently unimportant to be left to this note for refutation. Beugnot says (*Assises*, i, 131, note a), "On conçoit

under Frankish control, communes — sworn corporations — did exist.

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que l'auteur, préoccupé de ce qui existait en Europe, ait employé les mots *comun* et *comune* pour désigner une ville quelconque et ses habitants." Two years later he wrote (*Assises*, ii, introd., p. xxi) "Les jurisconsultes emploient, il est vrai, le mot *coumunes*, mais ils appliquent cette dénomination aux sociétés fondées en Syrie par les Génois, les Pisans et les Vénitiens." "Il n'existait point de communes dans les colonies latines d'Orient" (*ibid.*, p. xxvii).

Now to say that Ibelin was so wrapped up in European institutions that he loosely applied western terms to institutions in the East which did not have the same characteristics, as Beugnot would seem to imply, is to impute to Ibelin a carelessness in terminology which is hardly conceivable in so shrewd and accurate a legist as his works show him to have been. Ibelin himself quotes the statement of Hugh of Antioch-Lusignan that the usages and customs of Jerusalem were not exactly those of France, though admittedly based upon them (*Assises*, ii, 406), and it would be strange if he himself then confused the two.

Ibelin specifically lists communes as one of the groups which could bring in an appeal when any member was murdered, a list which included the family, vassals, peers and "frarie" of the murdered party (*Assises*, i, 131). This would indicate the recognition of some elements of unity within the commune if not the recognition of its corporate character. The argument that Ibelin did not recognize the corporate character of the commune because, in his list of the fiefs of the kingdom with their quota of service due, he lists all the cities uniformly as supplying sergeants in time of special need and does not differentiate between those which had communes and those which did not, is readily answered by recalling that the communes were of very short duration and only began in the 13th century. Ibelin's list goes back to the reign of Baldwin IV before any of the communes had been organized, as is proven by the inclusion of such men as Paganus de Caiphas, Raymond de Scandalion, and Balian the Chamberlain all of whom were important under Baldwin IV and all of whom appear on charters of the period around 1180. While willing to grant Beugnot's contention that Ibelin and the other legists of Outremer use the term commune to indicate the Italian settlements, I am unwilling to agree that he did not recognize the corporate commune founded in the Syrian towns. And wholly apart from the evidence contained in the Assises, there is more than enough proof of the existence of communes in thirteenth century Syria.

WITNESSES AND OATH HELPERS IN OLD NORWEGIAN LAW

Some thirty miles south of Bergen on the island of Tysnes there seems to have been located in the days of Norwegian heathendom an important sanctuary dedicated to the worship of Njord, the god of the winds and the sea. This divinity is usually identified with Nerthus of whom Tacitus writes in the Germania. The fact that Nerthus was a goddess, while Njord was only a god, seems to have caused no embarrassment either to mythologists or philologians. And it is true, of course, that in the age of fable the divine life frequently suffered essential transformations, many of which were both strange and sudden.

It is quite clear that, on the bleak and ragged coast of Hordaland, the worship of the divinity that ruled the ocean would have something more than a local interest. It is also clear that even a heathen cult could scarcely flourish unless the sanctuary and its environment enjoyed a condition of relative peace and personal security. To ensure this condition the dwellers of the island seem at some early date to have formed themselves into a jurisdictional unit and to have called their island the Njord-law.[1] This name it continued to bear till the close of the middle ages.[2] It is a curious fact that the modern name, Tysnes, is apparently derived from Tyr,[3] another Teutonic divinity, who evidently had a sanctuary in some other part of the same island.

It is believed that the idea of a social organism living under the rule of law gradually traveled northward along the coast, till the limits of Njord law included three important *fylkir*, or shires, in the area north and south of Bergen.[4] In the course of

[1] The name of the island is discussed by Magnus Olsen in *Forhandlinger i Videnskabsselskabet i Christiania, 1905* [Proceedings of the Scientific Society in Christiania, 1905], "Det gamle norske önavn Njarðarlǫg" (Christiania, 1906).

[2] The latest appearance of the name in a document seems to be in 1490.

[3] Old Engl. *Tig* or *Tiw*.

[4] See Knut Gjerset, *History of the Norwegian People* (New York, 1915), i, 116–117.

time the confederation was further enlarged by the adherence of several other shires both to the north and to the south.

How long the center of this enlarged jurisdiction remained at the old sanctuary cannot be known; but in the earlier decades of the eleventh century, when the Christian missionary was pressing his first serious attack on the strongholds of the ancient faith, the public assembly of the confederation was holding its annual sessions somewhere on the shores of Gula-fjord, possibly on the little peninsula of Gulöy, some sixty miles north of the fanes of Njord. This assembly was known as the Gulathing and the area itself as the Gulathinglaw.

Elsewhere in the land a similar development had gone forward with like results. The shires bordering on the Trondhjems-fjord were sending their representatives to the peninsula of Frosta where they held the Frostathing.[5] North of Oslofjord a wide jurisdiction centered at Eidsvold where the Eidsivathing held its annual sessions.[6] In the eleventh century a few shires in the southeast formed themselves into the Borgarthing law with its center at Borg (now the city of Sarpsborg).[7]

These four separate jurisdictions developed their own separate codes of law, considerable parts of which have come down to us.[8] The most important of these are the laws of the Gulathing and the Frostathing, which seem to have been preserved in a fairly complete form. The Gulathing law was evidently put into written form sometime in the first half of the eleventh century, when the land was emerging from heathendom. In its extant text, however, it apparently embodies a version prepared about 1100, or perhaps a little earlier, with certain amendments that were agreed to in 1164. The Frostathing law seems to have undergone several revisions; the extant version

[5] Gjerset, *op. cit.*, pp. 113–114.

[6] *Ibid.*, pp. 112–113. The Eidsivathing law seems to have been older than any of the other Norwegian "laws."

[7] Probably in the earlier decades of the eleventh century. Its organization is usually credited to Saint Olaf (1016–1030).

[8] These materials have been edited by R. Keyser, P. A. Munch, and others, and published in five volumes under the title *Norges gamle love indtil 1387* [The Old Laws of Norway to 1387] (Christiania, 1846–95). Vol. v (1895) is chiefly a glossary prepared by Gustav Storm and Ebbe Hertzberg.

dates in the main from the middle of the thirteenth century.[9]

The importance of these documents for the study of life and law in the Northern countries is readily appreciated; many of their enactments have their origin, however, far back in heathen times and they have, therefore, an added interest for all students of mediaeval ideals, because of the light that they shed on the legal ideas and the judicial methods of the Germanic peoples.

Like other Germanic laws the Old Norwegian "books" are properly concerned with fines and other forms of penalty; but unlike some of these they also deal somewhat explicitly with judicial methods and procedure. Though one would like to have additional information on many points, it is possible from the Old Norwegian codes to construct a fairly satisfactory account of the methods and the machinery employed by the public courts (and in private arbitration) in the effort to arrive at a just settlement of the disagreements of men.

Throughout all this legislation one finds the same fundamental principle, namely, that the dealings of man with man should, as far as possible, be made a matter of public knowledge. It was, therefore, held necessary to have a record made of the important features of every transaction that might later become a subject of litigation. Inasmuch as it was not possible to make written records in every case, even after the Christian clerk had brought an improved art of writing into the land, the record had to be made on the minds of men.[10] Where a modern litigant would bring a written deed or contract into the court, the Norseman of the eleventh century would bring in a group of men who had at some earlier time been called together to witness the arrangement that had since led to litigation.

Various expedients were employed to secure this publicity. Contracts and other agreements were frequently entered into at the public assembly, or *thing*, as the law court is still sometimes called in Northern speech. Here witnesses were readily obtainable and the character of the occasion may have been regarded

[9] See Absalom Taranger, *Udsigt over den norske rets historie* [Outlines of the History of Norwegian Law] (Christiania, 1848), i, 42–47.

[10] This was called *skirskotan*, from the verb *skirskota*, to call an act to the attention of witnesses.

as giving an added sanction to the terms agreed upon. When the king's bailiff had lands to sell, they had to be offered and sold at the thing.[11] Land subject to the rules of *odel* right also had to be sold at the thing.[12] The formal conveyance of land seems always to have taken place before an assembly of men, usually at the thing, though the transaction might legally be consummated at a church, in an ale house, or on board an important ship.[13]

Secular business was very often transacted in the church yard, where men assembled regularly or could easily be brought together. Thus, if a man wished to forbid another to use a pasture, a wood lot, or a fishing ground,[14] or to harvest grain on land that was in dispute,[15] he could place a formal ban on the field or the pasture land by giving due notice at the church or at the thing. The laws also required that, when a minor took over an inheritance, proper notice to this effect would have to be given at some public place.[16] In the same way a man could secure his claim to an imprisoned bear "by giving notice where many men are assembled that the lair is barred and belongs to him." [17]

Another legally recognized and highly honored institution was the ale feast. An emancipated thrall was required by law to give what was called a franchise ale, brewed from a specified amount of malt, before he could enter into the full enjoyment of his new social status as a freedman.[18] To this festival he would invite his former master, and the fact of manumission would thus be given a proper publicity. At the inheritance ale the heirs entered upon the grateful task of distributing the property of the departed owner.[19] This ale was usually given at the end

[11] *Gul.*, 264. Gulathing law and Frostathing law will be regularly abbreviated to Gul. and Frost. The Arabic numerals used refer to sections, not to pages. In the Frostathing law the sections are grouped into divisions which are numbered by Roman numerals.

[12] *Ibid.*, 276; *Frost.*, xii, 4. *Odel* (or allodial) land could not be sold outside the kindred so long as a kinsman was willing to pay the price offered by an outsider.

[13] *Gul.*, 292. [14] *Frost.*, xiii, 14. [15] *Ibid.*, xiii, 26.

[16] *Gul.*, 122. But only when certain earlier formalities had been neglected.

[17] *Ibid.*, 94.

[18] *Ibid.*, 62, where the process of manumission is described; cf. *Frost.*, ix, 12.

[19] *Gul.*, 23, 115.

of a week or a month after the decease; it was also a proper occasion for creditors to appear with such claims against the estate as could be effectively supported by witnesses.[20] It may be added in passing that the church sought to give the inheritance ale a more solemn character by enacting that the priest should be present to bless the ale; such a feast was then called "soul's ale," the ale being drunk to promote the health of the departed in the other world.[21]

All forms of business, even such as might be regarded as essentially private, had to be completed in the presence of witnesses, if the contracting parties wished to have their rights thoroughly secured. All purchases had to be made in the presence of men called in to hear the terms of the bargain and to observe the payment of the price.[22] Land was leased and rent was paid under the same conditions.[23] When a man moved the first load of his belongings to a rented farm, witnesses had to be present to note the fact.[24] All important matters of economy involved in marriage and guardianship [25] had to be revealed in this way. A certain number of neighbors were always invited to hear the terms of a betrothal [26] or of a legal separation, if such there had to be.[27] The children of a bondwoman could be disposed of only in the presence of witnesses.[28] Illegitimate children were adopted into the family in the presence of neighbors who came to observe the ceremony and to taste the ale.[29]

If a man came upon a stranded whale, he could proceed to cut it up only after he had secured competent witnesses,[30] since the entire beast would ordinarily not be awarded to the finder. The owner of a hawk, if he had bound it to the nest, could secure his right to the bird by stating before witnesses "that he

[20] *Gul.*, 23, 115. [21] *Ibid.*, 23.

[22] *Ibid.*, 40, 45, 59, 116: "a debt is not paid unless witnesses have knowledge of the payment."

[23] *Ibid.*, 79; *Frost.*, xiii, 3, 17. [24] *Frost.*, xiii, 1. [25] *Ibid.*, ix, 22–23.

[26] *Gul.*, 51; *Frost.*, iii, 22.

[27] *Gul.*, 54. "If a man wishes to separate from his wife, let him declare his intent so clearly that each of them can hear the other's voice; and let him have witnesses present."

[28] *Ibid.*, 57.

[29] *Ibid.*, 58; *Frost.*, ix, 1. The ceremony described was evidently a very ancient custom.

[30] *Gul.*, 149; *Frost.*, xiv, 10.

had bound it." [31] Witnesses were also necessary to the legal identification of stolen property; the owner of such property was allowed to search the house of any one whom he suspected of being a thief, but only with the aid of witnesses.[32] The same rule was applied to the identification of property recovered from a foray [33] or saved from a wrecked ship.[34]

The discussion thus far has been concerned chiefly with witnesses who were brought together to observe a transaction which was approaching the point of consummation, but which could not be legally consummated without their assistance. However, a certain form of skirskotning was possible even after the transaction had been closed. Especially would this be true in matters of sale and purchase, where the buyer felt that he had suffered deception. If he should discover, for example, that a thrall whom he had recently bought had a serious fault or blemish, he had to summon witnesses and call the fault to their attention. The thrall might then be legally returned to the seller, but only in their presence and before the end of the month.[35]

The intent and purpose of all these requirements (and of many more that have not been mentioned) were that there might be a reliable body of capable witnesses to guide the thingmen in making their award in case of subsequent litigation. The laws of the Gulathing state specifically that all lawsuits were to be determined according to the testimony of witnesses and such "gains" as might come to either litigant in the progress of the suit.[36] In the course of a normal lawsuit witnesses appeared at nearly all the important stages. The plaintiff began his suit by looking up his opponent and summoning him to be at his home by his fireside and in his high seat on a specified day; this was called a "home summons" and had to be served before witnesses.[37] On the appointed day the plaintiff would take witnesses and go with them to the defendant's home to summon him to appear at the public court [38] or to demand restitution of property, in which case the suit would probably be heard by a

[31] *Gul.*, 75. [32] *Ibid.*, 255. [33] *Ibid.*, 314. [34] *Ibid.*, 145.
[35] *Ibid.*, 57. [36] *Gul.*, 59.
[37] *Ibid.*, 35 *et passim.*
[38] *Frost.*, iv, 37 *et passim.*

dómr, a sort of private tribunal the aim of which was to bring the contending parties into a friendly agreement.[39]

As the suit went forward in the normal way, witnesses to the various forms of summons had to be heard in their turn. If it appeared to the satisfaction of the thingmen that the case had been brought before them in a legal manner, they would allow the suit to go on. The plaintiff would bring forward a group of men who could testify to the facts involved in the contention and would ask for a favorable judgment, which the thingmen would render or refuse to render according as the evidence appeared to be.[40]

The witnesses heard at court were usually men who had been invited to hear the terms of a transaction and to watch its consummation; they were witnesses by request or by appointment. As noted above, however, men who had not been specifically summoned for this purpose might be in position to give pertinent information, even if this had been acquired only after the event had occurred. Evidence of this somewhat less reliable character was often heard in criminal trials, for crime, even in those violent days, was ordinarily not committed in the presence of spectators. When a farm had received a visit from evil men, the householder would call in his neighbors to see what had been done and to look into the circumstances.[41] If a man had been wounded or otherwise severely injured or seriously molested, he was expected to show his injuries to whomever he could and on the same day, if possible.[42] In the legal action that was sure to follow, this man and others who had been invited to examine the wounds and to hear the account of what had occurred would be available as witnesses, in so far as they had been able to get at the pertinent facts.

The lawmakers of Old Norwegian times recognized the validity of what is often called the "unwritten law"; but they extended its application to six kinswomen in addition to the

[39] *Gul.*, 37. The tribunal was also called a *skiladómr*; see *Norges gamle love*, v (glossary), *dómr* and *skiladómr*.

[40] The subject of court procedure in mediaeval Norway is discussed by Ebbe Hertzberg in *Grundtrækkene i den ældste norske proces* [Outlines of legal procedure in Norway in its oldest form], (Christiania, 1874).

[41] *Gul.*, 160. [42] *Ibid.*, 184.

wife.[43] If a husband or a kinsman were to slay a man who had violated this law, he would have to send for his neighbors at once to see what had been done.[44] Again, if a man were to kill a thief in his barn or in his storehouse, as he had a perfect right to do, he would have to proceed immediately to lay the facts before his assembled neighbors.[45]

Closely related to these requirements was the duty laid upon every man who had slain another on the highway or elsewhere to report his deed at the nearest homestead, if no one had been present to view the occurrence.[46] By thus assuming full responsibility for what he had done, he might be allowed to atone for his crime with a money payment; otherwise he would probably have to suffer the hard fate of an outlaw.

The human temper was not in good control in the mediaeval North, and deeds of violence were occasionally committed at public gatherings,[47] or in the sight of men who were accidentally present. It could also happen that men would come upon another man and find him in the midst of an evil act. Such witnesses were called "eyewitnesses." [48] The courts were also instructed to hear evidence as to common rumor. If it is rumored that a man has been at work on a holy day, "witnesses to the fact of the rumor shall be heard in this way that one may testify and two shall confirm his testimony in cases involving three oras. But in cases involving six oras one may testify and four shall confirm, and they must be fylkismen; and this shall be the form of the oath: I call God to witness that I have heard this [report] and that the rumor has floated about over three farms or more than three, but I do not know whether it is true or not." [49] Evidence as to rumor often had the same effect as the modern indictment; a man could not be convicted by such testimony but he could be forced to put forth a defense, usually by offering

[43] *Gul.*, 160. This right was not peculiar to Norwegian law. See F. L. Attenborough, *The Laws of the Earliest English Kings* (Cambridge, 1922), pp. 84–85: Laws of Alfred, c. 42: 7.

[44] *Gul.*, 160. [45] *Ibid.*

[46] *Gul.*, 156; *Frost.*, iv, 7. If near kinsmen of the slain occupied the nearest two homesteads, he might go on to the third.

[47] *Gul.*, 157, 187; *Frost.*, iv, 14, 15.

[48] *Sjónarvitni.* Adultery could be proved by two eyewitnesses: *Frost.*, iii, 5.

[49] *Frost.*, ii, 29.

to take the prescribed oath, with or without oath helpers as the case might demand.[50]

The laws appear to have assumed that a case would ordinarily be decided on the evidence submitted by the plaintiff; still, the right of the defendant to produce counter-witnesses is expressly recognized, with the proviso, however, that he would have to find at least one more witness than the plaintiff had produced.[51] If he succeeded in this, the men who testified for the plaintiff would be given no credence whatever.[52] But "if both sides produce the same number of witnesses, those who testify last are to be regarded as false witnesses, and they shall never again be allowed to testify in such a case and each one of them shall pay a fine of three marks to the king." [53] There is also an allusion to "better witnesses," but what is meant is not clear.[54]

The number of witnesses necessary to establish a fact varied with the business under consideration; but ordinarily two were deemed adequate, though larger numbers were thought desirable. The older law states that one witness is worthless and two are as good as ten if there are no counter-witnesses.[55] In rare cases, however, the testimony of a single witness was held to be sufficient. One was enough, for example, to prove that a manslayer had given adequate notice of his deed.[56] In cases involving the right to redeem an odel, three witnesses might be required to establish the fact that the claimant actually did have allodial rights.[57] In sueing to recover a debt the creditor might have to make three formal demands on the debtor to pay what he owed him; four witnesses had to be present at the third demand.[58]

A witness must first of all be the bearer of pertinent information; but in certain classes of lawsuits additional qualifications were demanded. A thrall was ordinarily not allowed to testify; however, when the charge was forcible entry into a man's house and home, the testimony of a thrall or a bondwoman would be received as entirely competent.[59] In such

[50] *Frost.*, ii, 29, 46; iii, 3, 5, 18. [51] *Gul.*, 59, 60; cf. *Frost.*, xiii, 24.
[52] *Gul.*, 60. [53] *Ibid.* [54] *Ibid.*, 86. [55] *Ibid.*, 59.
[56] *Ibid.*, 156: "but he must also bring a declaration from his household."
[57] *Ibid.*, 266. [58] *Ibid.*, 37. [59] *Frost.*, iv, 5.

cases, too, "one who is eight years old [may testify] as well as an older person." In suits involving manumission, the courts would hear only the testimony of free men of free birth.[60] Inasmuch as questions relating to allodial rights could be answered by such persons only as knew the traditions of the locality, the laws required that one who wished to redeem odel land would have to present as witnesses three men who had reached the age of twenty before the day of their fathers' death. Their testimony would further have to be confirmed by that of certain other witnesses who had reached the age of fifteen before their fathers died. Moreover, "all the witnesses to the odel must be men born to odel right, men who have odel land in the *fylki* where the land to be redeemed is located." [61] Another instance of confirmatory evidence appears in the younger law where it is enacted that, if a man charges another with having allowed a dishonor to remain unpunished, he must support his contention with the testimony of ten men: "two men shall swear and eight shall confirm the statement." [62]

Witnesses to ordinary business transactions were expected to keep the important details in mind for a period of ten years;[63] after that time the transaction evidently could not be called into question, for the witnesses were excused from testifying. But if they had been called to witness the sale or conveyance of allodial land, they would be held to their duties for twenty years.[64] It seems that it was possible for these men to transfer the responsibility to other and presumably younger men; but four witnesses of this newer set were needed where two of the original witnesses had been sufficient.[65]

In certain cases the courts would also admit evidence of a circumstantial or material character. The possession of stolen goods was always sufficient to convict a thief.[66] When a stranded whale is found and there is doubt as to its size and class, "let the finder bring the dorsal fin to the thing and let it

[60] *Frost.*, ix, 10. These witnesses had to be produced by the defendant if his right to freedom was questioned.

[61] *Gul.*, 266. *Fylki* is the Norwegian word for shire.

[62] *Frost.*, v, 22.

[63] *Ibid.*, x, 28.

[64] *Ibid.*, x, 28; xii, 1.

[65] *Ibid.*, xii, 1.

[66] *Gul.*, 254–256; *Frost.*, xiv, 12.

testify for him." [67] There might be cases of manslaying where a bed sheet or bloody clothes would be allowed to serve as one witness.[68] If a man had been set upon and wounded, one witness and the wound itself would be accepted by the thingmen as satisfying the normal requirement of two witnesses.[69]

These early lawmakers saw quite clearly that when two sets of witnesses uphold contentions that are quite contradictory, one of the two must be wrong and probably guilty of bearing false witness. It was therefore a serious matter to be found testifying for the losing side; for the law was disposed to deal severely with any one who was suspected of having given currency to an untruth, whether the act was deliberate or the result of error. According to the Gulathing law the witnesses on the losing side were to be regarded as "worthless witnesses": "they shall never again be allowed to testify in such a case, and each of them shall pay a fine of three marks to the king." [70]

The Frostathing law is even more severe: "men who are found to have testified to an untruth shall, each of them, owe a fine of three marks to the king and shall never be capable of bearing witness after that; nor shall they enjoy witnesses in their own behalf or have any right to claim atonements." [71] It will be remembered that in Old Northern times witnesses were commonly of the skirskotning type: men whose attention had been specifically directed toward some particular transaction or proceeding; and although the thingmen understood perfectly that observers might find themselves in disagreement as to what had actually been done in the circumstances, they seem to have felt, nevertheless, that such disagreement was more often due to dishonesty or incompetence.

It is quite evident that the laws intended that all cases, both civil and criminal, should be decided, whenever possible, on the testimony of competent witnesses. At the same time it was recognized that the courts would often have to deal with suits and indictments which could not be determined

[67] *Frost.*, xiv, 10; cf. *Gul.*, 149: "or let him leave behind the backbone, the head, and the tail fins; then, if he has no witnesses, these parts shall bear witness for him."

[68] *Frost.*, iv, 39. [69] *Ibid.*, iv, 24.

[70] *Gul.*, 60. [71] *Frost.*, xiii, 25.

by such procedure. This would be especially true when the question was a matter of criminal guilt, theft, for example, a crime with which the laws deal somewhat extensively. There are many cases, even in our own efficient age, where suspicion is strong and definite, but where satisfactory evidence cannot be secured. In our own day and land such cases rarely come to trial; they are either dismissed by the grand jury, or dropped on the motion of the prosecuting attorney, or thrown out of court at some later stage of the proceedings.

In the Middle Ages, however, charges and accusations were not disposed of in such an easy manner, though there is no reason to believe that all indictments were heard in court even in those days. Still, it seems generally true that when a man was charged with having been guilty of serious misdoing and the charges were preferred according to the prescriptions of law, it was his duty to clear himself, either by producing competent witnesses or by countering the accusation with an oath in the old Germanic way. We are not to infer from this, however, that the burden of proof rested on the defendant; ordinarily the accuser did not get very far without the help of witnesses. The only safe inference appears to be that the indictment, when properly presented, was in itself a form of proof, though not necessarily conclusive proof. It had at all times a greater virtue than the unsupported statement of the defendant; only when the refutation was confirmed by an oath, single or multiple, was it able to overcome the presumption of guilt already created when the plaintiff presented his indictment. If the offense alleged was regarded as being of a mild and not particularly heinous form, the defendant was able to satisfy the demands of justice with his own unsupported oath; in most cases, however, he would have to have the support of oath helpers.

It is difficult to understand the underlying principle of compurgation; and the problem becomes peculiarly difficult when one finds that the laws insist on regarding the oath helpers as a group of witnesses. That their testimony was looked upon as distinctly inferior to that presented by certain other classes of witnesses is not important, for the laws recognized various

classes of witnesses whose evidence was also regarded as of inferior value.

The various kinds of witnesses enumerated in the Old Norwegian laws (and the number is very large) have been grouped into five classes.[72] Of these the first and the highest are the men who were specially summoned to observe the course and to note the terms of a transaction, the men whom Norwegian students of law have called skirskotning witnesses. They were counted the most reliable of all those who were asked to give evidence; their standing in court was without question; and their statements could not be refuted by any form of oath or oath-helping.

Ranking next to these were those whose testimony was based on common knowledge or on facts that belonged to their own experience. If a dispute should arise about the location of boundary stones, the use of a road or a stream, or the duty to maintain a fence, it would be decided on the testimony of witnesses of this sort. Their standing in court was not so clear as that of those who had received a specific summons to come and to assist in the consummation of business as noted above; but such standing could be gained; and when it was acquired, these men became witnesses of the first class. Their testimony, too, was wholly immune against any attack by oath or compurgation.

The third class was made up of "accusing witnesses," men who preferred charges against any one or who supported such charges. Of these there were many varieties: at one extreme there might be the affirmations of one who had actually suffered an injury; at the other were found those who retailed common rumor. But all these varieties were regarded as bringing less reliable testimony than the two classes referred to above. Their affirmations could sometimes be refuted by oaths, or, on occasion, by the ordeal, if purgation was not allowed.

Still lower in the scale stood the confirming witnesses the use of whom was, however, very limited.[73] Like the witnesses to

[72] See Hertzberg, *op. cit.*, p. 237. The classification is not entirely satisfactory but it has its practical value.

[73] See above, pp. 139–140.

criminal charges, these were not regarded as giving testimony of a very high quality. Their statements, too, might be successfully countered by oaths and oath helpers.

Finally there were the oath helpers who, as noted above, are frequently spoken of as witnesses in the older laws. In general their evidence is very much like that of the confirming witnesses, for both seem to have testified to belief rather than to positive knowledge. There was, however, this essential difference that oath helpers were always sworn while witnesses were ordinarily not required to make their affirmations upon oath. The younger law does, it is true, demand that ordinary testimony shall in certain contingencies be confirmed with an oath;[74] but this was doubtless an innovation and may have been due to the influence of canon law.

We may accept the conclusion that compurgators swore to a belief only; at any rate they were not required to do anything more than that. A belief, however, usually has some basis, and we may be allowed to assume that in many cases it may have been founded on something actually approaching knowledge. Moreover, it must have been a rather strong belief; otherwise the compurgator would probably have refused to take the required oath. Perhaps it was also a belief commonly held in the community, for the courts took care that the defendant should not bring too many of his friends into the oath. Compurgators were apparently not obtained without some difficulty; for the accused was usually given several weeks to prepare for the oath-taking.[75] Evidently most men were reluctant to swear to a belief that was not based on substantial conviction.

The charges that could be refuted with a simple oath were not numerous; moreover, many of the offenses that could be dealt with in this way were unknown to the jurisprudence of earlier times, having come into the category of crimes with the introduction of the Christian faith and moral system. If a man was accused of having done labor on a holy day, he could clear himself by swearing that he had done it unwittingly.[76] The

[74] See *Frost.*, introd., 16; ii, 8, 29; v, 22; xii, 1; xiv, 2, 4, 7.

[75] See below, p. 151.

[76] *Frost.*, ii, 28.

same form of defense was allowed when a man had to meet the charge of having entertained an outlaw.[77] If a man was accused of having exposed his new-born child, his unsupported oath was accepted as a complete refutation.[78] Any doubt as to whether a child had been baptized could be resolved by the oath of some one who had performed the rite or had been present at the ceremony.[79]

A double oath is mentioned as sufficient to deny the legal existence of a petty indebtedness,[80] but this form of oath seems never to have been used in criminal trials. The threefold oath, an oath taken by the accused and two oath helpers, was the form of proof most generally prescribed whenever the courts had to resort to compurgation. There is some reason to believe that this oath is the most ancient form of Norse purgation; at any rate, the fact that it bore its own proper name[81] would indicate that it had enjoyed a long history.

Unless the charge was one of peculiar gravity, it could be met successfully with two oath helpers. As a rule this was prescribed as the proper mode of proof in ordinary cases of arson,[82] theft,[83] assault,[84] mutilation,[85] rape,[86] unlawful cohabitation,[87] torture,[88] and damage to personal property.[89] A threefold oath was also required if a man was accused of having eaten flesh on fast days,[90] or of having placed something unclean in another person's food.[91] If one was charged with having harbored an outlaw or of having had other dealings with him, he was allowed to make a denial on the same terms.[92] In the same way a three-

[77] *Ibid.*, iv, 9. Cf. *Gul.*, 202, where a threefold oath is required.

[78] *Frost.*, ii, 2. Cf. *Gul.*, 21, where a father is permitted to leave a deformed child to perish in a church, but only after it has been baptized. In heathen times a father was under no obligation to bring up a child unless he wished to do so.

[79] *Frost.*, ii, 3.

[80] *Gul.*, 37. "Two oaths shall deny a debt of two oras."

[81] *Lyrittareiðr.* The term seems to mean the "folkright oath."

[82] *Frost.*, xiii, 13. Setting fire to crops.

[83] *Gul.*, 257, 258; *Frost.*, xv, 15, 16.

[84] *Gul.*, 211: when there are no visible signs of injury.

[85] *Frost.*, iv, 43. [86] *Gul.*, 199. [87] *Frost.*, iii, 3. Cf. *Gul.*, 57.

[88] *Gul.*, 210. [89] *Frost.*, vii, 3. Demolishing a ship shed.

[90] *Gul.*, 20. [91] *Frost.*, ii, 43.

[92] *Gul.*, 140, 202. The accused was allowed to swear that he was ignorant of the outlawry.

fold oath would provide a satisfactory refutation in case a man was suspected of having slain his thrall [93] or of having pushed another person out over a cliff.[94]

There is mention of a fivefold oath in the Frostathing law to be demanded in certain cases of theft where the circumstances do not seem to call for a sixfold oath; [95] but it seems to have no other mention in either law. It was probably a form of recent origin and not known to the jurisdiction of the Gulathing.

The sixfold oath was frequently prescribed in cases that grew out of alleged infractions of church law, especially in the area covered by the Gulathing law, where penalties appear to have been more severe than in the territory about the Trondhjemfjord. The laws of Gula provide for a proof of this sort "in cases of theft, arson, damage to movables, 'wood slander,' tongue slander, and evil deeds against women"; it was also required in cases growing out of "raids on the part of traitors and when a kinsman was accused of having taken revenge for a [condemned] thief." [96] Charges of soothsaying, sorcery, and carnal relations with kinswomen could be refuted in this way only.[97] The Frostathing law prescribes the sixfold oath as satisfactory proof in cases of theft and destruction of property; among the crimes listed under this head are the stealing of cattle, silver, or seed grain, the killing of horses or other farm beasts, the destruction of a ship or a ship shed, and the burning of hay stacks outside the enclosure.[98] Charges of having contrived the murder of a man to whom one had given the peace pledge, or of instigating the crime of truce-breaking could be successfully denied with five oath helpers.[99] To be accused of having actually committed such crimes was a more serious matter and such charges had to be met by a more exacting form of refutation.

The laws allude to a sevenfold oath called the 'grim oath,' [100] but they give no indication as to why or under what circumstances it had to be offered. Inasmuch as *grima* is the word for

[93] *Gul.*, 182: but only when the body could no longer be inspected.
[94] *Ibid.*, 177. [95] *Frost.*, xv, 8.
[96] *Gul.*, 133. Wood slander was a form of defamation which consisted of vile images of the subject or of slanderous inscriptions carved on wood.
[97] *Ibid.*, 28. [98] *Frost.*, xv, 7–13. [99] *Ibid.*, v, 9; xv, 14. [100] *Gul.*, 134.

mask and a 'grim man' was a masked bandit, it has been conjectured that the grim oath was an oath demanded of men who were charged with having gone about in disguise to prey on their fellow men.

The most elaborate form of compurgation was the twelvefold oath which was prescribed when a man was seriously suspected of having committed murder or of having betrayed his king.[101] Certain forms of arson, such as burning a man's house or his crops, if they were within the bounds of the farmstead, were regarded as sufficiently heinous to be classed with murder and treason.[102]

The question how compurgators were chosen can be answered in part only. Ordinarily the defendant was allowed to select the greater number of his oath helpers; but quite frequently he had to find one or more of his supporters in a group selected by his opponent or by the court. The laws therefore distinguish between *nefndarvitni* and *fángavitni*, the former being 'selected' for the oath taker and the latter 'secured' by him. It seems likely that the two compurgators in the threefold oath were both secured by the accused, but his choice was not entirely unrestricted. "The threefold oath shall be taken in this way: the accused himself shall swear and with him another of equal rank, one who is not closely related to him by blood or marriage; then there shall be a third, a free man of full age, one who can be held to account for word and deed." [103]

The composition of the sixfold oath is best described in the Frostathing law. "And for the sixfold oath there shall be named six 'haulds' or the best freemen, if haulds are wanting. The prosecutor shall name half of the witnesses [oath helpers] and the defendant shall name half. He [the defendant] shall select one of the six; the second shall be his nearest kinsman; he himself shall be the third; and the other three shall be free men who are able to give account both for word and oath." [104]

The older law is less explicit. "Now six shall be named and ranged on both sides of the accused, men of his own rank; in

[101] *Gul.*, 132, 312; *Frost.*, xv, 1.

[102] *Frost.*, xv, 2: "so that the entire homestead would be placed in danger of fire."

[103] *Gul.*, 135. [104] *Frost.*, xv, 11.

cases of theft and arson let him select two of these, but [only] one in other cases that call for the sixfold oath." [105] It seems correct to assume that the remaining three were found by the defendant; but whether he had a share in selecting the initial group of six cannot be determined. However, the practice in the northern area should lead us to conclude that they were chosen by the two parties to the suit.

"If the grim oath is to be taken, let three men be named and placed on either side of the accused, all men of equal rank with him, and let him have them all, himself being the seventh." [106] Here again we have no clue to the manner of selection, though it seems most likely that the men were all appointed by the court.

In the selection of compurgators for the twelvefold oath the same principle seems to have been followed as in providing the supporters for the sixfold oath. In cases of murder and arson, says the Gulathing law, six men shall be chosen and placed "on either side of the accused, all to be men of equal rank with him; and let him have two of them and his nearest two kinsmen; [let the accused] himself be the fifth, and let him find seven oath helpers." [107] Once more one is left in doubt as to who selected the initial group of twelve; but the probabilities are that they were named by the two parties to the suit. This conclusion becomes almost a certainty when one compares the practices of the two jurisdictions. According to the Frostathing law the complainant was to select six and the defendant six. "And let them name twelve haulds from within the fylki or the best freemen, if haulds are wanting; neither kinsmen by marriage nor enemies shall be named." [108] The remaining provisions of the chapter resemble closely those of the older code.

In selecting the men who were to support his oath, the accused evidently had to exercise considerable care, for the courts apparently would allow only men of good standing in the community to participate in the purgation. It will be noted that the laws expect the oath-helping group to be composed in part of haulds or other freemen. A freeman in mediaeval Norway was a free husbandman, one who possessed a farm either in full

[105] *Gul.*, 133. [106] *Ibid.*, 134. [107] *Ibid.*, 132. [108] *Frost.*, iv, 8.

ownership or held it by the tenure of a leasehold. A *hauld* was a freeman whose farm was allodial soil and who, therefore, stood a little higher in the social scale than the ordinary freeman. These and other restrictions made it quite impossible for the accused to pack the group with his friends or partisans.

Rural Norway was never thickly inhabited and oath helpers no doubt often had to be sought beyond the limits of the defendant's own immediate neighborhood. In the northern area he was allowed to present men from anywhere within the fylki; but in that region the shires were quite small. The laws recognize the fact that finding suitable supporters might not be an easy task and therefore allow the defendant a period of ten weeks in which to present and take the oath.[109] When the charge was treason, however, very little time was allowed: "And the accused shall offer to take the oath at the king's garth in the fylki within three nights, unless he prefers to take it earlier." [110]

The oaths were sworn in the presence of the complainant and usually at some place selected by him. This might be at his or any other man's homestead; [111] but the laws appear to assume that the oaths would more often be taken in or just outside a church.[112] "Holding the massbook in their hands, the men shall swear the twelvefold oath; but if one witness fails to swear, the entire oath fails." [113]

The last part of this statement is of peculiar significance. The compurgators evidently had to take the same oath in the same terms, and the group had to be unanimous. A single refusal to swear destroyed the validity of the oaths taken by the other eleven men. If the oath failed in this or in any other way, the accused had to face serious consequences. "All twelvefold oaths, if they fail, lead to irrevocable outlawry, as do the grim oath and the oaths taken to refute charges of theft and arson. All other sixfold oaths, if they fail, lead to ordinary outlawry.

[109] *Gul.*, 30, 57, 314, *et passim.* The single unsupported oath might be taken at any time "when he who demands it wishes to hear it and has a book to offer to him." *Ibid.*, 135.

[110] *Frost.*, xv, 1. [111] *Ibid.*, iv, 8.

[112] *Gul.*, 24, 30, 136; *Frost.*, iv, 8, *et passim.*

[113] *Frost.*, iv, 8.

The threefold oath, when it fails, leads to such an outcome as may be agreed upon." [114]

If the accused was so unfortunately situated that he could find neither witnesses nor oath helpers to support his claim to a clean honor, he had no recourse but to go to the ordeal.[115] As this meant calling upon the Almighty to give testimony in the case, it was permitted in grave and very important matters only. If the person who had to submit to the ordeal was a man, it usually meant that he would have to walk over hot plowshares or carry the heated iron.[116] A woman, too, might be required to carry the iron, though sometimes she was sent to the boiling kettle.[117]

The ordeal was apparently regarded as an expedient to be used chiefly in the trial of some of the graver offenses against the laws of the church; it was, therefore, not used extensively in ordinary criminal litigation.[118] It was prescribed as the proper form of judicial proof if one had to meet the charges of having practiced sorcery, soothsaying, sodomy, and other related sins,[119] all of which were the peculiar concern of the disciplinary system and officials of the church. Questions of doubtful paternity were also on occasion referred to the judgment of God. If a man was begotten and born abroad, he would have to prove his right to an inheritance by submitting to the ordeal.[120] In like manner, if a woman charged a man who was no longer living with being the father of her child, she would have to prove her contention by carrying the hot iron.[121]

It will be noted that in cases of this sort the burden of proof

[114] *Gul.*, 135. When the sentence was ordinary outlawry, it was allowed to remain in suspense until an effort should have been made by the opponents in the case to settle their difficulties on the basis of a satisfactory money payment. If this failed, the sentence was enforced.

[115] *Frost.*, ii, 45.

[116] *Gul.*, 24, 32, 156, 158, 314; *Frost.*, ii, 1, 45; iii, 15; iv, 23; viii, 16.

[117] *Frost.*, iii, 15. See also *The Poetic Edda*, tr. H. A. Bellows (New York, 1923), p. 468: Gudrun's ordeal.

[118] *Frost.*, ii, 45. The ordeal was, however, allowed in certain cases of manslaughter, as when a man was slain abroad (*Gul.*, 158) or in a gang fight (*Frost.*, iv, 23). The accusations of a dying man could also be nullified by the ordeal (*Gul.*, 156).

[119] *Gul.*, 24, 32; *Frost.*, iii, 15.

[120] *Frost.*, viii, 16. [121] *Ibid.*, ii, 1.

rested on the claimant. In 1128 Harald Gillechrist, the pretended son of King Magnus Barefoot, proved his claim to royal blood by walking over nine hot plowshares.[122] Ninety years later Inga of Varteig carried the hot iron to prove that her son, the later King Hakon IV, was the son of Hakon III.[123]

One naturally wonders why some institution like the English jury did not develop in these Norwegian jurisdictions, where the testimony of witnesses was regarded as of such decisive import in all forms of litigation. For it is well understood that the jury in its earlier phase was essentially a body of witnesses. The English jury, however, had its origin in conditions which did not obtain in the North. The judges who went forth from the royal court or from the royal presence to hear pleas in the outlying shires can have had but little knowledge of local conditions in these or in any other shires except perhaps their own. Consequently they had to secure such information as they could from and in the community where the difficulty had arisen. This information they usually received from a representative committee of tenants and others, frequently to the number of twelve.

In Old Norwegian times the farmers and the boroughmen were all expected to attend the sessions of the regular public courts and also all the special or emergency sessions to which they might be regularly summoned. There were, of course, exceptions to this rule; valid excuses were always accepted, but the general duty was thoroughly understood. The thingmen of the Old Norwegian courts therefore did not ordinarily have to ask the community for information; they were the community itself, present in person at the public assembly.

At the same time, the Norwegian thingmen do seem on occasion to have made use of judicial expedients which are strongly reminiscent of the assizes of Henry II. Losses and damages and the value of property were normally estimated by qualified men and the laws assume that their findings would be

[122] Two bishops led Harald over the course. See *Chronicles of the Kings of Norway*, tr. S. Laing (London, 1844), iii, 192.

[123] *The Saga of Hacon* [Icelandic Sagas, iv], tr. G. W. Dasent (London, 1894), pp. 43–45.

accepted by the court.[124] "As men estimate [or value] it" is a phrase that runs all through the secular laws; and from their decision there was apparently no appeal. This practice reminds one of the early jury of assessment; though there is this difference that in Norway the assessors were apparently not required to confirm their findings with an oath.

In the Frostathing law there is an enactment in which the expedient of seeking information from the community seems to be employed. The section deals with disputes as to rights in the common and outlines the proper judicial procedure in such a case. "And at the thing there shall be chosen twelve haulds or the twelve best freemen, if haulds are wanting, each litigant naming six from his own thing circuit. And the complainant shall have any two of the twelve men whom he can get and who are able to swear as to whether the land belongs to him or is common land." [125] It may be objected that the twelve are chosen by the parties to the suit; but the selection is ordered by the court, and only the leading men of the community are allowed to serve. It may be further objected that only two are asked to give information and in behalf of the plaintiff only, to which the answer seems to be that the defendant does not need to prove his contention and that all the men chosen could not be expected to have the required information.

In the same law there is a curious bit of legislation with respect to men who compete in producing witnesses, either for the love of contention or to make a good impression on their supporters. In such a case "there shall be summoned . . . twelve of the oldest and most capable freemen in the fylki, six for either side, men who have had no share in the dispute. . . . And the twelve who have been thus appointed shall estimate the worth of the testimony as seems to them most right before God." [126] The suit was apparently to be terminated on the award of these men. This group, too, has a certain resemblance to an English jury; but it is to be noted that the men are chosen

[124] *Gul.*, 82, 274, *et passim.* In the later laws it is frequently provided that in case values are in dispute the assessment shall be made by six or twelve men, one half of the number to be chosen by each litigant.

[125] *Frost.*, xiv, 7. [126] *Ibid.*, xiii, 24.

by the litigants and that they are not required to confirm their decision with an oath.

A somewhat baffling provision appears in the Frostathing law in a series of instructions as to the proper procedure in cases of manslaughter when the slayer is not a resident of the district where the crime was committed. When the heir of the slain man finds the criminal, "he shall summon him before a thing; and at that thing twelve free men who are not selected oath helpers shall be competent to prove his innocence." [127] Whether one is allowed to say that in such a case the knowledge of the community is brought into the court is not clear; it is quite clear, however, that these twelve men can be classified neither as witnesses nor as oath helpers, as those terms were understood in the thirteenth century.

Closely resembling this enactment is one which allows a man accused of manslaying to prove an alibi. "If he was present at a thing, or if he was at church or at a merry-making or on a ship of the twelve-oar class or larger, let the twelve thegns who were with him, free men and of full age, prove him guiltless of the crime." [128] It cannot be argued that these are oath helpers, for such a thing as a thirteenfold oath is entirely unknown to Norwegian law; moreover, it seems quite evident that they are witnesses who testify to knowledge and not to belief.

In a section dealing with the black art, the older law provides that, if a woman is charged with undue familiarity with the powers of evil, or is accused of practicing witchcraft in its various forms, "six women shall be appointed, housewives whom men know to be good women, three to stand on either side of her; and they shall bear witness that she knows neither sorcery nor witchcraft. But if this testimony fails, it makes her liable to outlawry." [129] In this case the women were evidently all selected by the court. Their evidence was evidently regarded as based on something more substantial than mere belief, and it was therefore scarcely looked upon as a form of purgation. There is, moreover, no indication that the women were required to give their testimony on oath.

While these illustrations do not prove that the Old Norwe-

[127] *Frost.*, iv, 7. [128] *Ibid.*, iv, 5. [129] *Gul.*, 28.

gian courts had developed a system comparable to the Norman-English inquest, some of them, at least, seem to show that the principle on which the early jury of witnesses was based was by no means unknown in these courts. Under more exacting conditions its occasional employment might have led to the development of an institution somewhat like the one that found its form in the English assizes. But whether or not one is willing to admit that these expedients indicate an approach to the English jury (and they have long been in debate), one is likely to agree that they lie outside the boundaries of the judicial system that is outlined in the Old Norwegian laws.

LAURENCE M. LARSON

CLERICAL TENTHS LEVIED IN ENGLAND BY PAPAL AUTHORITY DURING THE REIGN OF EDWARD II

When Edward II became king, he fell heir to part of the proceeds of a clerical subsidy imposed at his father's request by papal mandate. Twelve days after the election of Clement V,[1] Edward I ordered envoys, whose departure for the papal court had been postponed on account of the death of the preceding pope, to be prepared to set out for the court of the new pope on 8 July, 1305.[2] Though the business of the delegation is not stated in the royal letter, the shower of papal bulls which descended upon England leaves little doubt about one of its purposes. On 1 August, 1305,[3] Clement V commanded the clergy

[1] Clement V was elected on 5 June, 1305: G. Mollat, *Les Papes d'Avignon* (Paris, 1912), p. 30. This was a remarkably rapid transit of news. The pope-elect, who was in Lusignan, did not learn of his election until 20 or 21 June: *ibid.*, p. 32. When Pope John XXI died on 20 May, 1277, the report of his death reached London after 3 June and before 15 June: *E.H.R.*, xxxii, 78. John XXI died at Viterbo; Clement V was elected at Perugia.

[2] *Parl. Writs*, i, 158; Prynne, *Records*, iii, 1047; *Cal. Close Rolls, 1302–1307*, p. 337; *Cal. Pat. Rolls, 1301–1307*, p. 371. Still other royal messengers were present at the papal court before 15 October: Public Record Office, Exchequer K.R. Accounts, 367/16, p. 5.

[3] The date is generally given as 1306: T. Rymer and R. Sanderson, *Foedera, Conventiones, Litterae*, ed. A. Clarke and F. Holbrooke (London, 1816–69, cited Rymer, *Foedera*), i, 991–992; Mollat, *Les Papes*, p. 274; J. Haller, *Papsttum und Kirchenreform* (Berlin, 1903), i, 381; T. Tout, Introduction to *The Register of John de Halton, Bishop of Carlisle, A.D. 1292–1324* (London, 1913, Canterbury and York Society), i, p. xvii, note 1. Previously I also thought that to be the year, though the collection began before 1 August, 1306: *E.H.R.*, xli, 335–336; *A.H.R.*, xviii, 52. The letters are dated "Burdegale, Kalendis Augusti pontificatus nostri anno primo." Clement's first pontifical year ran to the first anniversary of his consecration. Since he was consecrated at Lyons on 14 November, 1305, a letter issued on 13 November of the first year at Villandraut near Bordeaux (*Cal. Pap. Reg.*, ii, 19) must belong to 1306. Clement began to act as pope, however, on 24 July, 1305: S. Baluzius, *Vitae Paparum Avenionensium*, ed. G. Mollat (Paris, 1914–22), i, 54; G. Lizerand, *Clément V et Philippe IV le Bel* (Paris, 1910), p. 45. His letters issued between that time and the date of his consecration are also dated in the first year, e.g., Prynne, *Records*, iii, 1068; Baluzius, *Vitae*, iii, 48; Lizerand, *Clément V*, p. 423. Since he was in Bordeaux or its neighborhood during August of both years (Baluzius, *Vitae*, i, 3, 54, 60, 62; *Revue historique*, xl, 53–54; Mollat, *Les Papes*, p. 32; Lizerand, *Clément V*, pp. 47, 59–61; *Cal. Pap. Reg.*, ii, 1–22), it is difficult to say whether letters dated as above belong to 1305 or 1306. A copy of the bull ordering the levy of the first biennial tenth incorporated in a letter

of the British Isles to pay three tenths. The first was for two years, the second for two, and the third for three. They were to run successively from 1 November, 1305.

The regulations governing the levy were identical for the three tenths.[4] All regular and secular clerks except the cardinals, the Templars, and the Hospitallers [5] were to pay in semi-annual instalments at Midsummer and Christmas the tenth of their annual incomes as assessed in the valuation of 1291.[6] The collectors, who were the bishops of Lincoln and London,[7] were required to swear to collect the tax honestly and zealously and to keep the pope informed of their activities. They were instructed to appoint deputy collectors in each diocese after consultation with the bishop and two members of the cathedral chapter, to bind them with an oath, to oversee their work, to receive from them the money collected, and to keep it subject to papal order concerning its disposal. They were empowered to inflict ecclesiastical censures upon those who failed to pay on time, notwithstanding any earlier papal exemptions to the contrary. They, in turn, conferred the power of canonical coercion upon their deputies.

In those letters addressed to the clergy and the collectors which were intended for publication Clement announced that the tax was imposed to advance "the business of the Holy Land." The need of such aid he explained lengthily and ornately. "Because," he wrote, "both before and after the fortune of our promotion to the highest apostolic office we have

written at Westminster on 21 April, 1306 (*Register of Halton*, i, 253–259) fixes the date of the mandate as 1305.

[4] Found in the commissions of the collectors issued on 2 August: *Register of Halton*, i, 254–257; D. Wilkins, *Concilia Magnae Britanniae et Hiberniae* (London, 1737), ii, 288; *Registrum Simonis de Gandavo* (London, 1914–, Canterbury and York Soc.), pp. 223–226, 355–358; Lambeth Palace MSS., Register of Archbishop Winchelsea, fol. 20v.

[5] Anthony Bek, bishop of Durham and patriarch of Jerusalem, and holders of single benefices assessed at less than six marks were also exempt in practice (P.R.O., Exchequer L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 1), although they were not specified in the bull.

[6] This valuation was not specified in the commissions but was used in practice.

[7] On 5 August the bishop of Coventry and Lichfield was associated with them (Rymer, *Foedera*, i, 993–994; P.R.O., Papal Bulls, 10/34, 10/37, 11/18), but the accounts were rendered and the documents issued in the name of the first two bishops alone.

often tasted the bitterness of the cup of oppressions extended over the Holy Land, which the impious hand of the Saracens, always eager to be drenched in Christian blood, wounds and lacerates, we have lamented and do lament her difficulties, and, as the result of sympathy, we share intimately with her the torments of her grief. For avenging her — or rather our Saviour's — injuries, we propose to hasten, we intend to devote ourselves, and, with other cares laid entirely aside, to labor, so far as is permitted us from on high, by earnest endeavors, painstaking toil, unremitting vigilance, and sustaining and appropriate remedies lest that land should be unsuitably destitute of the aid of Christ's faithful, or its promised ultimate restoration should be delayed for lack of the price of the costly things it needs."

But deep as was his compassion for the woes of Jerusalem, his arrangement for the disposal of the proceeds of the tenths was notably different from what had become customary during the course of the thirteenth century. Collectors of earlier tenths for the crusades were instructed to deliver the receipts to the king only when he should actually set forth upon an expedition. Otherwise they were to deliver the money to agents designated by the pope.[8] The instructions were not always carried out literally. Edward I, in addition to a tenth paid to him for the crusade which he made,[9] secured more than half of the yield of all the other crusading tenths assembled in England previously during his reign.[10] But to have and to hold a share of the spoils he was compelled to undertake long and difficult negotiations,[11] and sometimes to resort to force.[12] Clement, in a series of letters not intended for publication,[13] authorized the collectors

[8] W. E. Lunt, *Valuation of Norwich* (Oxford, 1926), p. 58; *E.H.R.*, xxx, 409; Rymer, *Foedera*, i, 747.

[9] *Les Registres de Grégoire X*, ed. J. Guiraud (Paris, 1892–1906, Bibliothèque des Écoles françaises d'Athènes et de Rome), no. 193; Wilkins, *Concilia*, ii, 24.

[10] *E.H.R.*, xxx, 416; xxxi, 105, 109; xli, 349, 354–356; Rymer, *Foedera*, i, 931; *Cal. Pat. Rolls, 1292–1301*, p. 12; P.R.O., Auditors' Receipt Rolls, 47, 48, 50, 87; Auditors' Issue Rolls, 24, 26; Exchequer of Receipt, Misc. Rolls, 32–36.

[11] E.g., *E.H.R.*, xxx, 409–417.

[12] E.g., *ibid.*, p. 411; *Liber Memorandorum Ecclesie de Bernewelle*, ed. J. W. Clark (Cambridge, 1907), pp. 232–233.

[13] Dated from 2 to 5 August, 1305: Rymer, *Foedera*, i, 992–993; P.R.O., Papal Bulls, 10/20, 26, 27; 11/25; K.R. Memo. Roll, 5 Edward II, m. 147.

of the three tenths to deliver the proceeds to the enumerated recipients unconditionally. £10,000 were to be paid to Queen Margaret [14] to help sustain the burden of her charities, the yield of the second year to the prince of Wales for a like purpose, and the remainder to Edward I "for the aid of the aforesaid land."

The hollow pretense that the tenths were exacted for the benefit of the Holy Land was soon dropped. On 16 January, 1307, the pope announced that he had reserved one-fourth of the income during four years "for the burdens and necessities of the Roman church," and ordered the collectors of the tenths to deliver that amount to William Testa and his colleagues, the collectors of the papal revenues in the British Isles.[15] To this diversion of a portion of the funds Edward I agreed.[16] Another papal letter of the same date contained the statement that the tenths had been granted to the king originally not only to finance his crusade but also to support his "other necessities."[17]

From the first Edward I treated the tenth as if it had been granted for his own use. The collectors published their commission in Westminster and began to appoint their deputies on 21 April, 1306.[18] Within a month the king began to order the work of the deputy collectors,[19] whom the papal commission made responsible only to the principal collectors. At the command of king and council the dates established for the payment of the last three instalments of the first tenth were advanced. On 13 December, 1306, taxpayers were being excommunicated for failure to render a payment which the papal mandate al-

[14] In five yearly payments of £2,000 each.

[15] Rymer, *Foedera*, i, 1007–1008.

[16] K.R. Memo. Roll, 8 Edward II, Trinity term, m. 153.

[17] Rymer, *Foedera*, i, 1008.

[18] *Register of Halton*, i, 254, 259; J. B. Hurry, *Reading Abbey* (London, 1901), p. 181; *Memorials of Beverley Minster: The Chapter Act Book of the Collegiate Church of S. John of Beverley, A.D. 1286–1347*, ed. A. F. Leach (Durham, 1898–1903, Surtees Soc.), i, 133. The bulls apparently did not reach England until April, 1306. The collectors say "we received" the bulls on 21 April. The king in a letter to the pope, written probably in April, 1306, speaks of information he has received about the bulls from those "recently returned": *E.H.R.*, xli, 336, note 9; Royal Commission on Historical Manuscripts, *Fourth Report* (London, 1874), app., p. 394, no. 1051. Early in 1307 Clement referred to the grant of the tenth as made while he resided at Lyons: Rymer, *Foedera*, i, 1007–1008. He was there from 1 November, 1305 to 6 March, 1306: *Cal. Pap. Reg.*, ii, 6, 13, 19, 21; Lizerand, *Clément V*, pp. 47, 60.

[19] Prynne, *Records*, iii, 1151; Exchequer K.R. Accounts, 365/8, m. 6.

lowed to be made without penalty at any time before 25 December.[20] At the royal behest the deputy collectors made numerous payments from the receipts to royal agents and creditors, receiving therefor tallies which the exchequer accepted from the collectors in place of cash.[21] They also delivered some of the money directly to the wardrobe or the exchequer instead of to the principal collectors.[22] The king managed the collection of the tenth to suit himself, using such of the papal regulations as were to his advantage and disregarding others.

Before Edward I died,[23] £14,778 15*s.* ½*d.* of the yield of the first year had reached the exchequer.[24] Edward II received the remainder of the returns from the first year and the whole of those from the second. When the final account was made with the principal collectors in 1315,[25] the first item amounted to £5,446 11*s.* 10*d.*[26] and the second to £18,680 5*s.* 1½*d.*[27] Whether Edward I or Edward II paid to the pope £5,110 16*s.* 1*d.* and to Queen Margaret £2,000 from the proceeds of the first year is not specified in the account.

The second tenth was never levied.[28] Since the grant was made to Edward I and was not to go into effect until 1 November, 1307, presumably the intervention of his death caused it to lapse.

The concession of the third tenth was renewed in favor of Edward II,[29] who ratified his father's approval of the appropria-

[20] *Chapter Act Book of Beverley*, i, 174–177; Muniments of the Dean and Chapter of Westminster, 18/5803, 5806; Exchequer K.R. Accounts, 368/25, m. 3.

[21] Muniments of the Dean and Chapter of Westminster, 18/5743; Exchequer K.R. Accounts, 365/10, p. 37; 368/27, fols. 10, 11, 16, 18, 29v.

[22] Exchequer K.R. Accounts, 368/25; 369/11; Exchequer of Receipt, Misc. Roll 61.

[23] On 7 July, 1307.

[24] These are the payments recorded up to 9 May. The next payment was on 15 July: P.R.O., Pells' Receipt Rolls, nos. 157, 159, 161, 167. The first payment of the second year was not due from the taxpayers until 8 May, 1307: *Chapter Act Book of Beverley*, i, 199.

[25] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 1.

[26] The total charge against the collectors was £20,443 4*s.* 4½*d.*, and £275 16*s.* 8*d.* of bad debts remained uncollected.

[27] The collectors were charged with £20,375 11*s.* 7¾*d.*, and the arrears were £1,695 6*s.* 6¼*d.*

[28] *E.H.R.*, xli, 337, note 2.

[29] Bulls of different dates in May and June of 1309. On the date and the circumstances of the renewal see *E.H.R.*, xli, 349.

tion by the Holy See of a quarter of the proceeds.[30] The king published the renewed grant on 18 July, 1309,[31] and the collectors appointed their deputies on 17 August.[32] The first payment was ordered for 2 November, although it was not due until 24 June, 1310,[33] and the money began to be received by the exchequer on 6 November.[34] At the instance of the king, who repeatedly urged haste,[35] later payments were also anticipated.[36] A chronicler's view that the whole of the triennial tenth was paid within a year and a half [37] is somewhat exaggerated, but so expeditiously was it assembled that on 11 February, 1312, two years and three months after the date of the first payment, only £6,002 remained to be collected.[38] Throughout the period the king further enhanced the availability of the proceeds by payment of his debts with orders drawn upon the deputy collectors.[39]

[30] K.R. Memo. Roll, 8 Edward II, m. 153; Rymer *Foedera*, ii, 87.

[31] *Cal. Close Rolls, 1307–1313*, p. 331. To the list of the exempt were added at the royal order vacant bishoprics and abbacies in the king's hands (K.R. Memo. Roll, 5 Edward II, m. 83) and for various reasons, which included the request of the queen, two nunneries, a cathedral chapter, and the order of St. Lazarus of Jerusalem: *Cal. Close Rolls, 1313–1318*, pp. 4, 53, 250, 265; *1318–1325*, pp. 70, 71; *Cal. Pat. Rolls, 1317–1321*, p. 223.

[32] *Cal. Close Rolls, 1307–1313*, p. 227; L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 1.

[33] *Registrum Simonis de Gandavo*, pp. 357–358. The collectors state that this payment became due on 24 June, 1309, but the papal grant reads "per triennium futurum incipiendum in festo Omnium Sanctorum in Anno Domini M. CCC. nono": *ibid.*, p. 355.

[34] Pells' Receipt Roll, no. 179.

[35] *Cal. Close Rolls, 1307–1313*, pp. 189, 227, 237; *Parl. Writs*, ii, 1, p. 59; T. Madox, *The History and Antiquities of the Exchequer of the Kings of England*, 2nd ed. (London, 1762), ii, 72; *Cal. Chancery Warrants, 1244–1326*, p. 296.

[36] Several receipts issued by deputy collectors: Muniments of the Dean and Chapter of Salisbury, Box A 1; *Chapter Act Book of Beverley*, i, 258; Muniments of the Dean and Chapter of Westminster, 18/5760. In one instance at least the clergy in convocation assented to the advance of the date of payment: *The Register of Walter de Stapeldon, Bishop of Exeter (A.D. 1307–1326)*, ed. F. C. Hingeston-Randolph (London, 1892), p. 121.

[37] "Gesta Edwardi de Carnarvan," *Chronicles of the Reigns of Edward I and Edward II*, ed. W. Stubbs (London, 1882–83, Rolls Series), ii, 38.

[38] K.R. Memo. Roll, 5 Edward II, m. 83.

[39] *Ibid.*, 6 Edward II, Trinity term, m. 110; P.R.O., Clerical Subsidy, 67/6; *Cal. Pat. Rolls, 1307–1313*, pp. 234, 392, 524; *Cal. Close Rolls, 1307–1313*, pp. 403, 425; *Registrum Palatinum Dunelmense: The Register of Richard de Kellawe, Lord Palatine and Bishop of Durham, 1311–1316*, ed. T. D. Hardy (London, 1873–78, Rolls Series), i, 312; *Rotulorum Originalium in Curia Scaccarii Abbreviatio* ([London], 1805–10, [Record Commission]), i, 195; Exchequer K.R. Accounts, 373/26, fols. 92v.–93v.; 374/2. m. 1v.–2v.; 374/5, fol. 49; 382/15, m. 18.

In the final account enrolled in 1315 [40] the bishops of Lincoln and London were debited with £61,239 11*s.* 1½*d.* The royal share was £45,929 13*s.* 4¼*d.* and the papal £15,309 17*s.* 9¼*d.* Of the former the collectors had delivered all but £2,749 8*s.* 5½*d.* and of the latter a large portion.[41]

When the pope renewed the grant of the triennial tenth, he also imposed an additional tenth to be collected in the following year.[42] He appointed the bishops of Lincoln and London collectors and gave to them the same powers that appear in their earlier commissions. They were soberly informed that Edward II was directing his energies toward the Holy Land and for that reason was to receive the whole yield of the tenth.

The administration of this tenth was subject to several vicissitudes. On 2 June, 1312, the king's council was much perturbed by news received from those returning from the council of Vienne that a tenth was to be laid upon the clergy of the whole world for six years.[43] Fearing that the collection of two tenths concurrently would damage the royal interests, the council advised the king to deliver the bulls granting the annual tenth to the collectors with orders to proceed with the levy immediately.[44] The king despatched the bulls,[45] but the pro-

[40] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 1v. The amounts charged against the collectors for each year were £20,338 14*s.* 4¾*d.*, £20,335 7*s.* 7¾*d.*, and £20,565 9*s.* 2*d.* Sir J. H. Ramsay takes the amounts charged against the collectors for the receipts and assigns the receipts from the first year of the triennial tenth to the regnal year 1307–08 and asserts them to be from "the Crusade Tenth granted by Nicholas during the last reign, which was still current," assigns the receipts of the second year to the first, and those of the third to the second "without any reservation for the Holy See": *A History of the Revenues of the Kings of England* (Oxford, 1925), ii, 92, 97, 99.

[41] K.R. Memo. Roll, 5 Edward II, m. 83; *E.H.R.*, xli, 355. An account of the arrears of the papal share is preserved among the Muniments of the Dean and Chapter of St. Paul's, Press A, Box 77, no. 2070.

[42] 30 May, 1309: K.R. Memo. Roll, 8 Edward II, Trinity term, m. 153v.

[43] The English prelates at the council, when consulted by Clement V shortly before 22 January, 1312, agreed to the levy of such a tenth, but it was not formally decreed until the second session of the council on 3 April: H. Finke, *Papsttum und Untergang des Templerordens* (Munster i W., 1907), i, 357, 365; ii, 269, 292, 293; Lizerand, *Clément V*, pp. 307–308; Ehrle in *Archiv für Literatur- und- Kirchengeschichte*, iv, 439; *Regestum Clementis Papae V*, editum cura et studio Monachorum Ordinis S. Benedicti (Rome, 1885–92), no. 7759. Cf. C. J. Hefele, *Histoire des Conciles*, ed. Delarc, ix (Paris, 1873), 416.

[44] K.R. Memo. Roll, 5 Edward II, Trinity term, m. 55.

[45] On 18 July: *ibid.*, m. 59v. The expenses of the messengers who went back and

posed anticipation appears to have been rendered unnecessary by the postponement of the date for the first payment of the sexennial tenth to 1 October, 1313.[46] The king's tenth was collected at Midsummer and Christmas of 1313,[47] conflicting with the conciliar tenth in only one payment. A further difficulty arose when some delinquent taxpayers denied the validity of Clement's mandate after his death on 20 April, 1314. The king disposed of them with an order to the bishops to excommunicate and report to the exchequer all such recalcitrants.[48]

These obstacles did not interrupt seriously the flow of the proceeds into the royal exchequer. The king, indeed, spent a large portion of the money several months before it was due by paying debts with orders drawn upon the collectors [49] and by extensive loans from prelates on the tenth as partial security.[50] In 1315 the final account displayed the king in receipt of the whole sum of £20,702 5*s*. 5¾*d*. except £1,890 10*s*. 3*d*. of arrears. From the receipts £1,780 10*d*. were deducted for the expenses of the collectors and their deputies during the six years while they had been collecting the Clementine tenths.[51]

After the render of this account a determined effort was made to recover the arrears of the three tenths, which amounted to more than £6,500. Sentences of excommunication and suspension from office were hurled about freely. The bishops were called upon by the king to add their censures to those of the collectors and to distrain upon the ecclesiastical benefices of

forth between king and council are recorded in a wardrobe account: British Museum, Cottonian MS., Nero C VIII, fol. 58v.

[46] The bull, dated 1 December, 1312, says the six years were to have begun the previous first of January: *Registrum Dunelmense*, i, 374–375; Muniments of the Bishop of Salisbury, Register of Simon of Ghent, fols. 178–179v.

[47] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 2.

[48] *Cal. Close Rolls, 1313–1318*, p. 103; *Registrum Dunelmense*, ii, 1009–1010.

[49] *Cal. Pat. Rolls, 1307–1313*, pp. 515, 523, 524; *1313–1317*, pp. 11, 43; *Cal. Close Rolls, 1307–1313*, p. 518; *1313–1318*, pp. 19, 33; Auditors' Issue Rolls, 56–58, 116, 117; Muniments of the Bishop of Winchester, Register of Woodlock, fol. 185.

[50] *Parl. Writs*, ii, 2, app., pp. 64–65; *Cal. Close Rolls, 1307–1313*, p. 511; *Registrum Ricardi de Swinfield, Episcopi Herefordensis, A.D. MCCLXXXIII–MCCCXVII*, ed. W. W. Capes (London, 1909, Canterbury and York Soc.), pp. 489, 490, 493. Sir J. H. Ramsay calls these loans "benevolences": *Genesis of Lancaster* (Oxford, 1913), i, 52; *Revenues*, ii, 106.

[51] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 2. Ramsay omits this tenth from his computation of the clerical subsidies: *Revenues*, ii, 148.

debtors named by the exchequer or by the collectors.[52] The papal collectors also joined in the hue and cry in behalf of the papal share.[53] Between 1315 and 1318 considerable sums were recovered,[54] but incomplete records render impossible a statement of the total. Even after the latter year small amounts of arrears continued to dribble into the exchequer.[55]

What the English clergy thought of these taxes is probably reflected in the diatribe of the Monk of Malmesbury against the papacy. "For eight years and more," he wrote, "Pope Clement V has ruled the universal church, but what good he has done for humanity escapes memory. At Vienne he assembled a council and disposed of the Templars, granted indulgences for the Holy Land, accumulated endless money; but the Holy Land has profited not at all. He has conceded tenths to kings and despoiled the churches of the poor. It would be better for the rectors of churches not to have a pope than to be burdened with so many exactions every day. But whether this can be done is not for me to discuss, since it is a kind of sacrilege to dispute the power of the head. England alone among all the countries of the world feels the burdensome domination of the pope; for he presumes to do many things from the fulness of his power, and neither prince nor people oppose him. All the fat incomes he reserves for himself, and opponents he promptly excommunicates; legates come and spoil the land; bearers of his bulls come and claim prebends. . . . Why does the pope encroach more upon the clergy than the imperial majesty and power upon the laity? For the emperor exacts nothing from

[52] Muniments of the Dean and Chapter of Westminster, 18/5762, 5765; Register of Woodlock, fols. 181, 283; Muniments of the Bishop of Salisbury, Register of Mortivall, i, fols. 143–145v., 149, 150; *The Registers of John de Sandale and Rigaud de Asserio, Bishops of Winchester (A.D. 1316–1323)*, ed. F. J. Baigent (London, 1897, Hampshire Record Soc.), pp. 45, 46, 52, 69, 70; *Calendar of the Register of John de Drokensford, Bishop of Bath and Wells, A.D. 1309–1329*, ed. Bishop Hobhouse (1887, Somerset Record Soc.), pp. 5, 6; *Registrum Ade de Orleton, Episcopi Herefordensis, A.D. MCCCXVII–MCCCXXVI*, ed. A. T. Bannister (London, 1908, Canterbury and York Soc.), pp. 17, 18.

[53] Muniments of the Dean and Chapter of St. Paul's, Press A, box 77, no. 2070; *Cal. Pap. Reg.*, ii, 451.

[54] Muniments of the Dean and Chapter of St. Paul's, *ibid.*; Muniments of the Dean and Chapter of Westminster, 18/5748, 5765.

[55] Clerical Subsidies, 67/8.

any one without cause; the lord pope, whenever he wishes, translates, collates, and revokes indiscriminately. Lord Jesus, either take away the pope from our midst or lessen the power which he assumes over the people." [56]

Though the three preceding tenths were designated as subsidies to aid the English king in an attempt to succor the Holy Land, they were obviously intended to supply the needs of king and pope. The universal sexennial tenth decreed at Vienne in 1312 may have been honestly designed to finance a crusade. An effort to recover the holy places in Jerusalem was still much discussed in Europe,[57] and at the period of the council there existed what appears to have been an ebullient enthusiasm for the project.[58] The promise of Philip the Fair to depart for Syria within six years was announced at the second session.[59] Yet the fathers assembled at Vienne apparently did not feel sufficient confidence in the manifestation to induce them to support the proposed expedition heartily,[60] and some contemporary chroniclers openly voiced a suspicion that "the council was held for extorting money." [61] On the other hand, the proceeds were handled differently from those of the preceding tenths. They were not paid immediately to king or pope, but were deposited in cathedrals in the care of bishops and chap-

[56] "Vita Edwardi Secundi Auctore Malmesberiensi," *Chronicles of the Reigns of Edward I and Edward II*, ii, 197–198.

[57] L. Bréhier, *L'Église et l'Orient au moyen âge*, 3rd ed. (Paris, 1911), pp. 248–258; Lizerand, *Clément V*, pp. 273–293.

[58] Lizerand gives a keen analysis of the motives of Clement V and Philip IV: *Clément V*, pp. 291–296.

[59] Finke, *Papsttum*, ii, 293. Edward II had expressed to the pope a desire to take part in a crusade: Lizerand, *Clément V*, p. 467, no. 28. In the spring of 1313 Philip in company with his sons, Edward II, and a number of French nobles took the cross: Baluzius, *Vitae*, i, 21; *H.F.*, xxi, 150.

[60] They were consulted by the pope informally in national groups in January. All consented except the French, who held out till they had advised with King Philip: Finke, *Papsttum*, i, 365; ii, 269, 270. But Walter of Hemingburgh, a contemporary English chronicler, asserts that the council gave neither assent nor a distinct negative: *Chronicon*, ed. H. C. Hamilton (London, 1848–49, English Historical Soc.), ii, 293–294. This accords with what is known of the method of transacting other business at the council: Lizerand, *Clément V*, pp. 339, 340. It is noteworthy in this connection that opposition to the papal levy of clerical tenths was voiced at the council: Haller, *Papsttum und Kirchenreform*, i, 54–64.

[61] Baluzius, *Vitae*, i, 19; G. Mollat, *Étude critique sur les Vitae Paparum Avenionensium d'Étienne Baluze* (Paris, 1917), p. 91.

ters, awaiting assignment to persons to be appointed subsequently by the pope.[62]

Innovations in the administration of this tenth [63] established precedents sometimes followed in later levies.[64] In place of two English bishops directing the work in the whole of England and Wales, each bishop was made responsible for the collection in his own diocese. The bishops paid their own tenths subject "ipso facto" to those penalties for failure which the deputy collectors meted out to other delinquents. Each bishop appointed suitable deputy collectors to exact the tenth of ecclesiastical revenues from all the other clergy in his diocese except the military orders.[65] The deputy collectors were bound by an oath similar to that previously used.[66] They were required to deliver the receipts to the bishop and to account both to him [67] and to papal agents. The bishops reported to the Holy See. Otherwise the methods of collection were the same as those used previously.

The collectors published their commissions and appointed their deputies during the summer of 1313.[68] The first two

[62] *Registrum Dunelmense*, i, 377. The tenth of southern Italy constituted an exception. The proceeds of the first three years were granted to Prince Philip of Taranto, who was engaged in defending Angevin possessions in Greece: *Regestum Clementis Papae V*, nos. 7759, 8863; Bréhier, *L'Église*, p. 268.

[63] The commission of the collectors is dated 1 December, 1312: *Registrum Dunelmense*, i, 373–379; *Register of Halton*, ii, 81; *Register of the Diocese of Worcester during the Vacancy of the See*, ed. J. W. Willis Bund (Oxford, 1897, Worcestershire Historical Soc.), pp. 174–175; *Regestum Clementis Papae V*, no. 9983; Register of Woodlock, fols. 189v.–191; Register of Simon of Ghent, fol. 178; Muniments of the Bishop of Lincoln, Register of Dalderby, fol. 244v.; Muniments of the Dean and Chapter of Canterbury, Register I, fols. 323v.–325.

[64] E.g., *Literae Cantuarienses*, ed. J. B. Sheppard (London, 1887–89, Rolls Series), i, 322–329.

[65] The decree did not exempt holders of single benefices valued at less than six marks. A deputy asked for a ruling on the point (*Register of the Diocese of Worcester during the Vacancy of the See*, p. 176), but I have not discovered what practice was followed. Poor hospitals and nunneries seem to have been exempt in practice: *Register of Walter Reynolds, Bishop of Worcester, 1308–1313*, ed. R. A. Wilson (London, 1927, Worcestershire Historical Soc.), pp. 72, 73.

[66] The bishops sometimes appointed deputies to receive the oaths: Register of Dalderby, fol. 245v.

[67] Some bishops appointed deputies to audit the accounts: Register of Dalderby, fol. 247v.; *Calendar of the Register of Drokensford*, pp. 76, 91.

[68] The dates range from 21 July to 21 October: *Registrum Dunelmense*, i, 383; *Register of Stapeldon*, p. 128; Wilkins, *Concilia*, ii, 433; Historical Manuscripts Commission, *Report on the Manuscripts of Wells Cathedral* (London, 1885), p. 299; K.R. Memo. Roll,

semi-annual payments were collected on 1 October, 1313, and 1 April, 1314,[69] though large amounts were left unpaid.[70] Before the first term of the second year became due, the collectors received orders to suspend the levy of the remaining five years.[71] Since the prayer of the Monk of Malmesbury had been answered and the papacy was vacant, presumably the command came from the king. John XXII, the next pope, confirmed the suspension, and ordered its continuance for three years [72] and later for five.[73] The collection, however, was never resumed. The probable reason for the interruption was the need of Edward II to tax the English clergy for his own purposes.[74] Scotland was exerting more financial pressure upon the king than was the Holy Land.

Edward II secured all of this tenth which was collected in England and Wales. He acquired possession by methods akin to those which his father had often employed. On 28 April, 1314, after the death of Clement V, royal writs ordered the collectors to report to the exchequer the amounts collected and the places of deposit.[75] During the summer the king began to require the collectors to lend him sums from the deposits in

11 Edward II, Michaelmas term, membrane without a number; Register of Simon of Ghent, fol. 180v.; Register of Dalderby, fol. 245; Cambridge University Library, MS. Ee v 31, fol. 131; *Register of Walter Reynolds, Bishop of Worcester*, p. 70. The papal bulls were received in London on 17 July, 1313: Register of Simon of Ghent, fol. 178.

[69] *Registrum Dunelmense*, i, 441, 456; *Register of the Diocese of Worcester during the Vacancy of the See*, p. 176; Muniments of the Dean and Chapter of Westminster, 18/5790.

[70] *Calendar of the Register of Drokensford*, p. 111; *Registers of John de Sandale and Rigaud de Asserio*, p. 81; *Registrum Ade de Orleton*, pp. 53, 55; *Register of Halton*, ii, 97; Muniments of the Dean and Chapter of Westminster, 18/5766, 5772; K.R. Memo. Roll, 11 Edward II, Michaelmas term, unnumbered mem.

[71] A deputy collector published this order on 25 September, 1314: *Chapter Act Book of Beverley*, i, 324.

[72] Letters of 28 March, 1317: Rymer, *Foedera*, ii, 319; *Cal. Pap. Reg.*, ii, 442; A. Theiner, *Vetera Monumenta Hibernorum et Scotorum Historiam illustrantia* (Rome, 1864), p. 190; K.R. Memo. Roll, 13 Edward II, m. 86; Lambeth Palace MS. 171, fol. 130v.

[73] 10 April, 1317: *Cal. Pap. Reg.*, ii, 416.

[74] On 27 March, 1314 the king asked the convocation of Canterbury for a grant (*Parl. Writs*, ii, 2, p. 122), though none was made till 1315. The clergy granted a tenth both in 1315 and 1316; below, pp. 180–181.

[75] *Register of Halton*, ii, 97; *Registrum Dunelmense*, ii, 1000; *Register of Stapeldon*, p. 428; *Cal. Close Rolls, 1313–1318*, p. 99.

their hands.[76] For the repayment of the loans English monasteries, Italian bankers, and others gave security. The collectors were to be reimbursed from the receipts of the next aid granted by the clergy. After some £8,250 had been received on these terms,[77] Edward obtained the permission of the collectors to borrow the whole of the proceeds.[78] For the remainder sureties promised repayment before various dates in 1315, unless the clergy should previously grant a subsidy from which the collectors could reimburse themselves.[79] When the clergy made such a grant,[80] the king began to issue writs authorizing the collectors to repay themselves.[81] Before they went into effect, however, he obtained a further postponement of the repayment until after the meeting of the next parliament,[82] though some collectors were loath to accede to the royal request.[83] At the parliament of Lincoln early in 1316 the prelates ratified the delay,[84] and the king again authorized the collectors to retain sums equivalent to their loans from the next subsidy voted by the clergy.[85]

By recourse to the pope the needy king avoided even this long-deferred payment. On 15 December, 1316, three months after John XXII was consecrated, Edward II sent to the Roman court such an embassy as that with which Edward I had greeted

[76] *Cal. Close Rolls, 1313–1318*, pp. 110, 111; *Cal. Pat. Rolls, 1313–1317*, pp. 188, 197; *Parl. Writs*, ii, 2, app., p. 78; *Register of Stapeldon*, p. 428; Muniments of the Dean and Chapter of Lincoln, Press A, shelf 1, 13(4).

[77] *Parl. Writs*, ii, 2, app., p. 78; *Cal. Close Rolls, 1313–1318*, p. 121; *Cal. Pat. Rolls, 1313–1317*, pp. 188, 197.

[78] 3 October, 1314: *Cal. Close Rolls, 1313–1318*, pp. 117, 118.

[79] *Register of Stapeldon*, pp. 429–431; *Calendar of the Register of Drokensford*, p. 78; *Cal. Close Rolls, 1313–1318*, p. 121; Royal Commission on Historical Manuscripts, *Third Report* (London, 1872), part i, app., p. 361; Hist. MSS. Comm., *Calendar of the MSS. of the Dean and Chapter of Wells* (London, 1907–14), ii, 588; Rymer, *Foedera*, ii, 258.

[80] York made a grant late in 1314 and Canterbury early in 1315.

[81] *Cal. Pat. Rolls, 1313–1317*, pp. 188, 197; Register of Mortivall, ii, fols. 10v., 22v.

[82] *Cal. Pat. Rolls, 1313–1317*, pp. 437–438; Register of Woodlock, fols. 276–277v.; *Register of Stapeldon*, pp. 433–434.

[83] Register of Mortivall, ii, fols. 11v., 12, 218–224.

[84] *Cal. of the MSS. of the Dean and Chapter of Wells*, i, 428; Register of Mortivall, i, fol. 137.

[85] *Cal. Pat. Rolls, 1313–1317*, p. 455; *Cal. of the MSS. of the Dean and Chapter of Wells*, i, 428; Register of Woodlock, fol. 278.

Clement V.[86] It was laden with expensive gifts[87] and empowered to grant pensions to the cardinals at its discretion.[88] To its request for fiscal favors it found John XXII as responsive as his predecessor had been. The envoys informed the pope of the appropriation of the tenth by the king, gave assurance of their master's intention to make a crusade, and asked that he might be allowed to retain the money to relieve his debts.[89] The new pope was willing to help the king, but did not wish to divert the tenth imposed by the council of Vienne to uses other than a crusade. He therefore suspended the collection of the remainder of the tenth[90] and established a new one to be paid to the king by the English clergy for one year during the period of the suspension.[91] He also lent to the king for five years the amount produced in the British Isles by the first year of the sexennial tenth, directing the English prelates to deliver to the king all of the proceeds which he had not yet received.[92]

On the receipt of this concession Edward demanded from the collectors the immediate render of any money in their possession and the speedy recovery of arrears.[93] Collectors and taxpayers who failed to respond promptly had their goods sequestrated.[94]

[86] Rymer, *Foedera*, ii, 303. Its objects are explained by the Monk of Malmesbury: *Chronicles of the Reigns of Edward I and Edward II*, ii, 227. On the embassy of Edward I to Clement V, see *A.H.R.*, xviii, 52.

[87] Murimuth, *Continuatio Chronicarum*, ed. E. M. Thompson (London, 1889, Rolls Series), pp. 25–26; F. Devon, *Issues of the Exchequer* (London, 1837), p. 133; *Cal. Pat. Rolls, 1313–1317*, p. 608; *Archaeologia*, xxxvi, 322–323. A rumor at Avignon that the royal gifts were worth 30,000 florins probably relates to this transaction: *Revue historique*, lxxxviii, 76–77.

[88] Rymer, *Foedera*, ii, 308; *Cal. Chancery Warrants, 1244–1326*, p. 455; *Archaeologia*, xxvi, 324. Later in 1317 the brother and two of the nephews of John XXII received pensions from Edward and appointments to his household: *Cal. Pat. Rolls, 1317–1321*, pp. 46, 47, 50; Rymer, *Foedera*, ii, 348.

[89] *Ibid.*, p. 319. [90] Above, p. 168.

[91] 28 March, 1317: Rymer, *Foedera*, ii, 319; *Cal. Pap. Reg.*, ii, 138, 416, 442; K.R. Memo. Roll, 13 Edward II, m. 86.

[92] 29 March, 1317: Rymer, *Foedera*, ii, 320; *Cal. Pap. Reg.*, ii, 139, 414; Lambeth Palace MS. 171, fol. 130v. According to Ramsay the pope granted this tenth to Edward: *Revenues*, ii, 116.

[93] Writs to the province of Canterbury were issued mainly on 10 June, 1317: *Cal. Close Rolls, 1313–1318*, pp. 479, 480; Hist. MSS. Comm., *Report on MSS. of Wells Cathedral*, p. 82; *Cal. of the MSS. of the Dean and Chapter of Wells*, i, 179; *Registrum Ade de Orleton*, p. 2; British Museum, Harl. Charter, 43 D 19; Register of Mortivall, i, fol. 151. Those to York went out in 1318: *Cal. Close Rolls, 1313–1318*, p. 535; Royal Commission on Historical Manuscripts, *Ninth Report* (London, 1883), app., pp. 184, 185.

[94] *Registers of John de Sandale and Rigaud de Asserio*, pp. 58, 61, 62; *Registrum Ade de Orleton*, pp. 53, 54; *Register of Halton*, ii, 175.

For the amounts received the king issued to the collectors letters of indemnity[95] and to the pope letters obligatory promising repayment within five years.[96] The promise was not kept. Thus Edward II secured permanent possession of as much of the tenth decreed by the council of Vienne as was ever levied in England. Its value cannot be stated exactly.[97] The loans acknowledged amounted to £17,235 18*s.* 7¾*d.*,[98] but they did not represent the total receipts.[99] On the other hand, the amount was less than that produced by the preceding tenths, because the dioceses of Carlisle and Durham were so ravaged by the Scots that some of the clergy could not pay their quotas.[100] With allowance also for other hopeless debts and for the expenses of collection, the royal profits may be estimated to have been in the neighborhood of £18,500.[101]

The tenth granted by John XXII to the king "for relieving the burden of his debts and promoting the cause of the Holy Land" [102] was collected by the bishops of Winchester and Ex-

[95] *Cal. Pat. Rolls, 1317–1321*, p. 164; Rymer, *Foedera*, ii, 389; Hist. MSS. Comm., *Report on MSS. in Various Collections*, iv (London, 1907), 75, 76.

[96] *Cal. Pap. Reg.*, ii, 170; J. Raine, *Historical Papers and Letters from the Northern Registers* (London, 1873, Rolls Series), pp. 310, 311.

[97] Because the receipts came to the king in the form of loans, no separate account of them was enrolled.

[98] *Cal. Pat. Rolls, 1317–1321*, pp. 118, 136, 156, 190, 191, 220, 247, 322, 331, 392, 400, 423, 437, 440, 511, 513, 562; L.T.R. Enrolled Accounts, Wardrobe, no. 2, mems. 1v., 17v.; R. H. Mason, *The History of Norfolk: from Original Records and Other Authorities preserved in Public and Private Collections*, i (London, 1884), 203. Some of these entries, other entries in the patent rolls, in Exchequer of Receipt, Misc. Roll 95, and in various episcopal registers I have considered to be duplicates. The extant obligations of Edward II to the pope preserved in the accounts of the papal camera amount to £15,497 18*s.* 9*d.*: *Römische Quartalschrift*, xxiii, 100.

[99] One example of receipts of which I have found no record will suffice. The total receipts from the diocese of Carlisle which I have located amount to £9 16*s.* Carlisle was assessed for the annual tenth of 1313 at £317 2*s.* 6¾*d.* On 15 July, 1318, only £147 2*d.* of the sexennial tenth were left unpaid in the diocese: *Register of Halton*, ii, 192–194.

[100] Carlisle was invaded both in 1313 and 1314: *Register of Halton*, ii, 206. In 1318 the clergy of Carlisle still owed nearly half of the tenth charged against them (*ibid.*, pp. 192–194), and from Durham, assessed at £1094 for the tenth of 1313, I have found record of the payment of only £150.

[101] For the annual tenth of 1313 the assessment was £20,702. Allow £944, £147, and £750 for the unpaid arrears in Durham, Carlisle, and other dioceses respectively, and £335 for the cost of collection. Ramsay places the receipts from this tenth at £19,057 15*s.* 10*d.* in addition to £6,666 13*s.* 4*d.* of loans from it: *Revenues*, ii, 116, 119, 148. The first item is probably the income from the annual tenth granted by the pope in 1317 and collected in 1318, which Ramsay does not mention.

[102] Muniments of the Dean and Chapter of Westminster, 18/5771.

eter.[103] They employed the administrative methods customary before the constitution of the council of Vienne.[104] The only general exemption was given to the possessors of single benefices assessed at less than six marks in the valuation.[105] The Hospitallers, who were required to contribute for the first time during Edward's reign, were allowed to compound for £200 because their incomes were not assessed in the copy of the valuation kept in the exchequer.[106] Though the year began on 1 September, 1317, the two payments were set for 1 June and 1 October, 1318.[107] The deputy collectors accounted to the bishop of Winchester in the autumn of 1319,[108] and his account was enrolled at the exchequer sometime after 2 November, 1319.[109]

For the levy of this tenth a new valuation was made in the province of York on account of the devastation wrought by the Scots. In the archdeaconry of Richmond an assessment compiled in 1317 for the levy of a tenth granted by the clergy was revised and used.[110] In the remainder of the province the king

[103] The bishop of Exeter was excused and the work was done by the bishop of Winchester: Muniments of the Dean and Chapter of Norwich, Registrum Nonum, no. 112.

[104] Their commission appears in K.R. Memo. Roll, 13 Edward II, m. 88.

[105] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 11; H. Cole, *Documents illustrative of English History in the Thirteenth and Fourteenth Centuries* (London, 1844, [Record Comm.]), p. 33. One deputy seems to have exempted the Carthusians: *Calendar of the Register of Drokensford*, p. 24. The king granted some individual exemptions: *ibid.*; *Cal. Pat. Rolls, 1317–1321*, pp. 223, 252, 312.

[106] K.R. Memo. Roll, 12 Edward II, Hilary term.

[107] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 11. In the province of York and the diocese of Norwich taxpayers were permitted to postpone payment to 1319: Rymer, *Foedera*, ii, 380; Muniments of the Dean and Chapter of Norwich, Registrum Nonum, no. 118.

[108] Registrum Nonum, nos. 121, 125, 126; *Calendar of the Register of Drokensford*, p. 24. In one instance a deputy collector was ordered to account at parliament: Chancery Misc., bundle 13, file 9, no. 3(2). The deputy collectors often paid their receipts directly to the exchequer or to the king's debtors: *Cal. Pat. Rolls, 1317–1321*, p. 191; *Rot. Orig. Abbrev.*, i, 248; L.T.R. Enrolled Accounts, Wardrobe, no. 2, m. 17; Chancery Misc., bundle 18, file 9, no. 3; Registrum Nonum, nos. 112–114, 116, 122.

[109] The account was rendered by the executors of the bishop of Winchester, who died on the above date. The king spent a large part of the proceeds before they were due by means of orders drawn on the collectors and issued to his debtors: *Cal. Pat. Rolls, 1317–1321*, pp. 116, 117, 126, 127, 160, 161; *Cal. Close Rolls, 1318–1325*, pp. 1, 5, 6, 8, 18, 33, 41, 45, 63, 85; *Cal. Chancery Warrants, 1244–1326*, p. 488; *Rot. Orig. Abbrev.*, i, 271; Registrum Nonum, nos. 112–114, 116, 122.

[110] *Cal. Pat. Rolls, 1317–1321*, pp. 13, 160; *Cal. Close Rolls, 1318–1325*, p. 16; *The Coucher Book of Furness Abbey*, ed. J C. Atkinson (Chetham Soc.), i, 3 (1887), p. 637; Clerical Subsidy, 67/9, mems. 3, 7.

ordered new assessments in 1318.[111] They reduced the tenth of the province of York from £4,124 15*s.* 5¾*d.* to £2,872 1*s.* 6¾*d.*[112] For the remainder of the reign of Edward II all clerical subsidies granted to the king by clergy or pope were exacted on the basis of the new valuation.[113] The amount charged against the collectors according to the new valuation was £19,499 7*s.* 10¼*d.*[114] The expenses of the collectors were £407, and £2,740 were still in arrears when the account was enrolled.[115]

Soon after the second payment of this tenth had become due, Edward sought from the English clergy a tenth for the war against the Scots. The northern convocation complied.[116] The bishops of the southern province, doubting their ability to force all of the lower clergy to pay a subsidy, asked the pope to impose such a tax,[117] and despatched Adam Murimuth to the papal court with their petition.[118] On 29 May, 1319, John XXII replied favorably. He commanded the clergy of the province of Canterbury except the Hospitallers to pay a tenth of their incomes during the ensuing year for the defense of the realm against the Scots,[119] and appointed the archbishop of Canter-

[111] *Cal. Pat. Rolls, 1317–1321*, p. 160; *Cal. Close Rolls, 1318–1325*, pp. 24, 43, 69; *Cartularium Abbathiae de Rievalle Ordinis Cisterciensis fundatae Anno MCXXXII* (Durham, 1889, Surtees Soc.), p. 426; *Registrum Honoris de Richmond* (London, 1722), app. civ., p. 156; Clerical Subsidy, 67/9, mems. 26–42. Further revision of individual items was made late in 1318 and early in 1319: *Cal. Pat. Rolls, 1317–1321*, pp. 244, 253, 336, 385; Clerical Subsidy, 67/9, mems. 33–36.

[112] Based on the amounts charged against the collectors: L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, mems. 2, 9, 11. The original returns to the royal writs are assembled in Clerical Subsidies 67/9, mems. 26–42 and 62/2. Some of the contemporary returns are printed: *Register of Halton*, ii, 183–189; Raine, *Northern Registers*, pp. 279–282. The *Nova Taxatio* in the *Taxatio Ecclesiastica Angliae et Walliae Auctoritate P. Nicholai IV. Circa A.D. 1291* ([Record Commission], 1802), is taken from later manuscripts.

[113] Clerical Subsidy, 67/9, m. 39; L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, mems. 7–12; *Cal. Close Rolls, 1318–1325*, pp. 269, 273; *Rotuli Parliamentorum; ut et Petitiones et Placita in Parliamento* (n. p., n. d.), i, 433.

[114] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 11.

[115] Ramsay (*Revenues*, ii, 148) omits this tenth from his tabulation.

[116] *Registrum Radulphi Baldock, Gilberti Segrave, Ricardi Neuport, et Stephani Gravesend*, ed. R. C. Fowler (London, 1911, Canterbury and York Soc., cited *Registrum Stephani Gravesend*), pp. 207–209; Clerical Subsidy, 67/9, m. 39.

[117] *Registrum Stephani Gravesend*, pp. 207–209.

[118] The king paid his expenses: Murimuth, *Continuatio Chronicarum*, p. 30.

[119] Wilkins, *Concilia*, ii, 492; K.R. Memo. Roll, 14 Edward II, m. 96.

bury and the bishop of London collectors.[120] Edward thus learned that it was easier to obtain taxes from his clergy by papal mandate than by clerical grant.

The collectors appointed their deputies on 8 August and established 12 October, 1319, and 16 February, 1320, as the dates for the two semi-annual payments.[121] These dates were too late to meet the pressing necessities of the king. Late in July he asked many prelates to advance the amounts of their tenths as loans for which they could reimburse themselves when the payments of the tenth became due.[122] Though Edward had previously employed this device successfully,[123] on this occasion he met with strong opposition. The abbot of Ramsey in his letter of regret voiced woes which were common to many of his fellow prelates. "We," he wrote, "have been in times past and are now oppressed exceptionally by divers exactions of tenths, procurations of cardinals, and other things (which need not be inserted in the present, since they are sufficiently apparent to those wishing to observe them) on account of which, not being able to live on our own income for a long time past, we have been and are at present without money, and have been forced to accept the loan of foreign money, and we are very heavily obliged to divers creditors." [124] In the diocese of Salisbury all except one of the prelates declined to make the requested loans.[125] The tenth was paid, however, with unusual promptitude. Perhaps the efficiency was due to the special agents whom the collectors appointed to receive the accounts of the deputy collectors, to collect the arrears, and to relax the censures from the delinquent taxpayers as fast as they paid their debts.[126] The deputy collectors accounted to them in the spring

[120] *Ibid.; Registrum Stephani Gravesend*, p. 209; *Cal. Pap. Reg.*, ii, 185; Clerical Subsidy, 52/2a.

[121] Clerical Subsidy, 52/2a; Muniments of the Dean and Chapter of Canterbury, Register I, fol. 362v.; Register of Mortivall, ii, fol. 87v.

[122] *Parl. Writs*, ii, 2, app., pp. 140, 141; Register of Mortivall, ii, fol. 166v.; *Calendar of the Register of Drokensford*, p. 135.

[123] Above, pp. 164, 168, 169.

[124] 5 September, 1319: *Cartularium Monasterii de Rameseia*, ed. P. A. Lyons, ii (London, 1886, Rolls Series), 200.

[125] Register of Mortivall, i, fols. 166v., 167.

[126] They were Thomas de Stowe and Richard de Bello: Lambeth Palace MSS., Regis-

of 1320,[127] and the principal collectors accounted at the exchequer before the close of the fiscal year. The collectors were charged with £16,626 1*s.* 4½*d.*, from which they were allowed £260 for expenses. They delivered the remainder except £492 3½*d.*[128] These arrears, as was customary, were turned over to the sheriffs to collect. Within a year they had been reduced to £178 12*s.* 8*d.*[129]

After the difficulty experienced in obtaining the grant of this tenth, Edward did not trouble the clergy the next time he desired a similar tax. He sent immediately to the pope,[130] who issued a mandate directing the clergy of England, Wales, and Ireland except the Hospitallers to pay to the king for the defense of his kingdom a tenth of their incomes during the following year.[131] The archbishops of Canterbury and Dublin and the bishop of London were named collectors.[132] On the petition of the bishop of London the king nominated the deputy collectors and held them responsible directly to the exchequer.[133] Thereby a new administrative practice was established. Deputy collectors of previous tenths had often rendered payments to the exchequer, but they were always given tallies which the principal collectors presented at the final account with the exchequer.[134] The final account for this tenth was made by the

ter of Reynolds, fol. 226v.; *Thirty-fifth Annual Report of the Deputy Keeper of the Public Records* (London, 1874), app., p. 32, no. 342; *Registrum Stephani Gravesend*, p. 225.

[127] Clerical Subsidy, 52/2a, verso.

[128] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 8. Ramsay (*Revenues*, ii, 120, 123, 148) places the return from this tenth at £6,953 19*s.* 8*d.*

[129] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 10.

[130] Adam of Orlton, who represented the king at the papal court during the whole of 1319 (Rymer, *Foedera*, ii, 383, 399; *Registrum Ade de Orleton*, p. xvii) delivered the papal bull to the exchequer on 20 February, 1320: K.R. Memo. Roll, 13 Edward II, m. 77.

[131] 18 December, 1319: *Registrum Stephani Gravesend*, p. 223; *Cal. Pap. Reg.*, ii, 191. The king tried to collect from the Hospitallers, but abandoned the attempt: Register of Mortivall, i, fol. 170v.; *Cal. Close Rolls, 1318–1325*, p. 197. Possessors of single benefices assessed at less than six marks were exempt: *Chapter Act Book of Beverley*, i, 386. The king also exempted the incomes of two cardinals, of the bishop of Lincoln whose temporalities were in his hands, and of the bishop of Ely who had spent much in the king's business: *Cal. Close Rolls, 1318–1325*, pp. 188, 197, 302, 303.

[132] Commission of the same date: *Registrum Stephani Gravesend*, p. 223; *Cal. Pap. Reg.*, ii, 191.

[133] K.R. Memo. Roll, 13 Edward II, mems. 99–100.

[134] The notable exception is the tenth imposed by Boniface VIII. After the death of

deputy collectors themselves.[135] The principal collectors issued to the deputies their commissions, empowering them to use ecclesiastical censures,[136] and exercised a general supervision over the work of the deputies,[137] but were relieved of direct responsibility for assembling the proceeds and accounting for them.[138] They appointed the deputies on 14 July, 1320, and fixed the dates of payment at 12 October, 1320, and 16 February, 1321.[139] The tenth of England and Wales produced a net yield of approximately £18,000.[140] Of this £3,284 represented arrears, of which the greater part was recovered in later years.[141]

Long before this tenth was paid, Edward was already appealing to the pope for another.[142] Though one of his envoys was promised the cancellation of a debt of 1,000 marks in the event of the successful outcome of his mission,[143] no tenth was forthcoming from that source. After this contretemps the king

the pope Edward I forced the deputy collectors to deliver the proceeds to the exchequer and to account for them there: *E.H.R.*, xxviii, 314.

[135] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, mems. 8v., 9; Muniments of the Dean and Chapter of Westminster, 18/5781. Apparently the deputy collectors rendered an account also to the principal collectors.

[136] K.R. Memo. Roll, 18 Edward II, m. 99v.; *Registrum Stephani Gravesend*, p. 226.

[137] *Literae Cantuarienses*, i, 50; Chancery Misc., bundle 18, file 9, no. 4.

[138] This method of administration was employed for the remaining papal tenths levied during the reign.

That it necessitated a closer supervision of the deputy collectors by the exchequer is evidenced by a royal writ of 6 October, 1322, ordering the bishops of London and Lincoln to deliver to the exchequer the register of the valuation "necnon formam collectionis et levacionis decimarum hujusmodi ad opus summorum Pontificum hactenus usitatam": Rymer, *Foedera*, ii, 497.

[139] K.R. Memo. Roll, 13 Edward II, mems. 99–100. On 10 August, 1320, the principal collectors advanced the date of the first payment to 29 September: Muniments of the Dean and Chapter of Westminster, 72/12338. The following are receipts issued by deputy collectors to taxpayers: *ibid.*, 18/5759, 5770; Muniments of the Dean and Chapter of Salisbury, press iv, box A 1; Bodleian Library, Oseney Charter 43; *Calendar of Charters and Documents relating to Selborne and its Priory*, ed. W. D. Macray (London, 1891, Hampshire Record Soc.), p. 87.

[140] The collectors were charged with £19,552 2*s.* 9*d.* This included some exemptions which I have estimated at £1,300 and expenses amounting to £210 16*s.* 8*d.*: L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, mems. 8v., 9. Ramsay apparently ascribes this tenth to 1320 and puts the receipts at £16,134 1*s.* 1*d.*: *Revenues*, ii, 123, 148.

[141] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, m. 9; Register of Mortivall, i, fol. 180v., 181; Exchequer K.R. Accounts, 506/27, 16/18; British Museum, Stowe MS. 555, fol. 10.

[142] Letters of credence issued to his envoys are dated 15 March, 1320: *Cal. Close Rolls, 1318–1325*, p. 225.

[143] *Ibid.*

turned to his clergy, though he did not neglect to renew his request to the pope.[144] Nearly simultaneously both petitions were answered favorably. On 20 April, 1322, John XXII ordered the clergy of England, Wales, and Ireland except the Hospitallers [145] to pay to the king for the defense of the realm a tenth for two years beginning on the next 30 May.[146] He commissioned the archbishop of Canterbury, the bishop of London, and the bishop-elect of Coventry and Lichfield as collectors.[147] In May, before this grant was known in England,[148] the clergy of both provinces conceded five pence in the mark.[149] The latter was collected first,[150] causing the postponement of the levy of the former. The king named the deputy collectors of the tenth on 24 January, 1323,[151] the bishop of Lichfield issued their commissions six days later,[152] and the first semi-annual payment, originally scheduled for 11 November, 1322,[153] was actually collected toward the last of February, 1323.[154] The remaining payments, however, were exacted according to the original schedule, the last one becoming due on 24 May, 1324.[155]

[144] An embassy for that purpose was given letters of credence on 8 December, 1321: Rymer, *Foedera*, ii, 464; Exchequer K.R. Accounts, 309/27, m. 3.

[145] Edward II later exempted the incomes of the cardinals: *Cal. Close Rolls, 1318–1325*, pp. 258, 415.

[146] *Cal. Pap. Reg.*, ii, 223, 449.

[147] Commission of same date: Wilkins, *Concilia*, ii, 514; K.R. Memo. Roll, 16 Edward II, m. 72v.

[148] The collectors did not publish their commission until 20 June: "Ann. Paulini," *Chronicles of the Reigns of Edward I and Edward II*, i, 304.

[149] *Calendar of the Register of Drokensford*, p. 203; K.R. Memo. Roll, 16 Edward II, m. 90. The grant was made at parliament during May (*Ann. Paulini*, p. 303) and at the convocation of Canterbury province held on 9 June: *Parl. Writs*, ii, 2, p. 259.

[150] *Charters relating to Selborne*, p. 87.

[151] K.R. Memo. Roll, 16 Edward II, m. 72.

[152] Muniments of the Dean and Chapter of Westminster, 18/5780; Muniments of the Dean and Chapter of Canterbury, Register I, fol. 386v. The bishop of Coventry and Lichfield seems to have performed all the work of the principal collectors. In addition to the preceding documents, see *Register of Roger de Norbury* in *Collections for a History of Staffordshire*, ed. Wm. Salt Arch. Soc. (Birmingham), i (1880), 251, note 13; K.R. Memo. Roll, 16 Edward II, m. 72.

[153] The papal bull fixed the terms at 11 November and the day of the Ascension: Wilkins, *Concilia*, ii, 514. The latter was on 5 May in 1323 and 24 May in 1324.

[154] Muniments of the Dean and Chapter of Westminster, 18/5758, 5768; Bodleian Library, Oseney Charter 263.

[155] *Charters relating to Selborne*, p. 88; Muniments of the Dean and Chapter of Westminster, 18/5763, 5764, 5769.

In an account enrolled in 1323 and 1324 the king had received from the two English provinces about £33,500 net, and the unpaid debts were over £4,000.[156] The greater part of the arrears was probably recovered in later years.[157]

Of this tenth John XXII demanded a share. The royal messengers who secured the concession were informed that the pope reserved for himself a fourth of the proceeds,[158] though no intimation of division between king and pope appears in the bulls decreeing the levy.[159] On 17 September, 1323, the pope requested the payment of his portion.[160] Edward acknowledged his obligation, but professed himself unable to meet it for the time being.[161] The pope continued to make demands,[162] but it was a hopeless task to obtain money from Edward, who offered nothing in reply more substantial than excuses.[163] The only payment which the pope ever received from Edward II consisted of 5,000 florins (£875) [164] which the king sent by one of his envoys as a present, but which John XXII chose to regard as an instalment on the sum due for his share of the tenth.[165]

To appreciate the advantage to the king of these tenths imposed on the clergy by papal mandate, it is necessary to compare them with the income-taxes which the king received from the English clergy as the result of their own grants. The concessions of clerical subsidies from the pope were obtained with ease at small cost. In return for the cession of eleven tenths which produced a net sum of approximately £208,000, Edward

[156] The collectors were charged with £38,489 14*s.* 4¾*d.* The expenses of collection were £351 and the arrears £4,316 16*s.* 8¾*d.* The treasury had received £30,560 19*s.* 5½*d.* Of the remainder a small amount represented exemptions granted by the king, and the rest had been accounted for elsewhere. L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, mems. 12–15. Ramsay puts the receipts from this tenth at £40,430 15*s.* 5*d.*: *Revenues*, ii, 148.

[157] E.g., Register of Mortivall, i, fol. 247; P. R. O., Pipe Roll, 3 Edward III, m. 31.

[158] Rymer, *Foedera*, ii, 536; *Cal. Pap. Reg.*, ii, 456; P. R. O., Papal Bulls, 25/6.

[159] Bulls cited above, p. 177, notes 146, 147; the king's statement: Rymer, *Foedera*, ii, 581.

[160] Rymer, *Foedera*, ii, 536.

[161] *Ibid.*, p. 581.

[162] *Cal. Pap. Reg.*, ii, 476–477.

[163] Rymer, *Foedera*, ii, 629.

[164] The above equivalent is calculated at the rate of 3*s.* 6*d.* for a florin. At the time the rate varied from 3*s.* 5½*d.* to 3*s.* 7*d.*: *Cal. Pap. Reg.*, ii, 480.

[165] *Cal. Pap. Reg.*, ii, 477; E. Göller, *Die Einnahmen der apostolischen Kammer unter Johann XXII* (Paderborn, 1910), p. 499; Vatican Archives, Collectoria 379, fol. 74; Introitus et Exitus Register, xxiii. fol. 68.

II allowed the pope to have a share amounting to about £16,000. Once a papal mandate had been secured, no appeal to the clergy was necessary. When the pope commanded the clergy to pay a tenth to the king, they had no option. They must obey or suffer ecclesiastical penalties that might extend to excommunication and suspension from office. A papal grant was executed by collectors appointed by the pope. In practice they worked largely under the direction of the king. Edward II exercised far more control over the collection of papal tenths than his father had done. He ordered the disposal of the proceeds, anticipated the dates of payment established by the papal bulls, exempted from payment whom he pleased, changed the assessment,[166] and gave orders to the collectors and also to the deputy collectors whom he sometimes practically appointed. Though Edward I had performed many of these acts, they had been done by him only occasionally and exceptionally. Before 1306 they were regarded as usurpations and proper causes for clerical or papal opposition.[167] With Edward II they became normal. Practically, the ecclesiastical censures were directed by the king. The pope permitted the king for limited periods to have the use of a part of his *plenitudo potestatis* over the clergy for the purpose of exacting taxes.

The royal command was not sufficient for the levy of income-taxes from the clergy. Edward II always asked the consent of the clergy in parliament or in convocation before he taxed them by royal authority. Rarely could he obtain their consent without opposition. Of eight requests for subsidies [168] two were refused outright.[169] On the six occasions when subsidies were

[166] In addition to the evidence previously cited, see Clerical Subsidy, 68/61.

[167] Possibly the biennial tenth granted in 1273 should constitute an exception. It was, however, granted by the clergy, though they acted at the papal request, and the subsidy was levied by papal collectors: *The Register of Walter Giffard, Lord Archbishop of York, 1266–1279*, ed. W. Brown (Durham, 1904, Surtees Soc.), pp. 39–41; *Registres de Grégoire X*, nos. 186, 193; Wilkins, *Concilia*, ii, 24.

[168] When he asked both of the convocations separately in the same year for a grant, I have ccunted the two requests as one.

[169] In 1311 the king asked for 12*d.* in the mark: *Cal. Pat. Rolls, 1307–1313*, p. 341. The convocation of York refused: Raine, *Northern Registers*, pp. 210, 211; *Registrum Dunelmense*, i, 6. I have not learned what the convocation of Canterbury replied. I have found no trace of receipts from this source, but my search has not been exhaustive. Ramsay says "the Southerners agreed," and includes £2,687 10*s.* therefrom in his

voted, it was often done only after protest and delay. On 27 March, 1314, the king by writ ordered the archbishop of Canterbury to convene his convocation on the same day and at the same place as parliament to treat of an aid to the king.[170] When the assembly met on 19 May, the clergy objected that convocation could not be summoned by order of the king and asked to have the citation revoked. It was so done, and another convocation met in June.[171] What action this convocation took does not appear. No grant was made until parliament met early in 1315. At that time, nearly a year after the original request, convocation authorized a tenth, though again the clergy protested the mode of summons.[172] The subsidy was given grudgingly and made dependent upon many conditions. The king was to guarantee the liberty of the church, to observe the ordinances of the lords ordainers, and to use the proceeds of the subsidy only for the common utility.[173] In 1316 the convocation of York had to be convoked four times before it finally conceded a tenth sought by the king.[174] Opposition to grants on such grounds as that a papal license was necessary,[175] that convocation could not be summoned to appear at the secular court of parliament,[176] that the clergy could not be compelled to assemble outside their own province,[177] that enough of the clergy were not present,[178] and that the clergy were too heavily burdened [179] was frequently voiced in convocation. Obviously it relieved the king of constitutional restrictions, of difficulties and delays, and of the danger of complete refusal, to tax the clergy on the authority of the pope.

estimate of the royal revenues: *Revenues*, ii, 100. He cites no evidence for his assertion. The 10*d.* in the £ granted by the clergy of the archdeaconry of Durham was for the local defense of Durham, and not, as Ramsay asserts, for the king: *Registrum Dunelmense*, i, 97. The other occasion of a denial was in 1323: *Parl. Writs*, ii, 1, p. 344.

[170] *Parl. Writs*, ii, 2, p. 122. [171] *Ibid.*, p. 123; Wilkins, *Concilia*, ii, 442–445.

[172] *Register of Stapeldon*, p. 122.

[173] *Registrum Ricardi de Swinfield*, p. 497; Madox, *Exchequer*, ii, 181, note o; *Calendar of the Register of Drokensford*, p. 87; *Parl. Writs*, ii, 2, app., p. 92; *Cal. Pat. Rolls, 1313–1317*, p. 271.

[174] Wilkins, *Concilia*, ii, 464.

[175] Raine, *Northern Registers*, p. 210; *Chronicles of the Reigns of Edward I and Edward II*, ii, 225; *Parl. Writs*, ii, 1, p. 344.

[176] *Register of Stapeldon*, p. 122.

[177] *Parl. Writs*, ii, 2, p. 259. [178] *Ibid.*

[179] Raine, *Northern Registers*, p. 210; *Parl. Writs*, ii, 1, p. 344.

The computation of the amount received by Edward II from clerical subsidies authorized by clerical grant has to be based on estimate. A fifteenth granted in 1307,[180] four pence in the mark on the spiritualities of the province of Canterbury in 1313,[181] a subsidy varying from eight to twelve pence in the mark on ecclesiastical benefices in different parts of the province of York in 1314,[182] and tenths from York in 1316 [183] and 1319 [184] do not appear in the enrolled accounts. The enrolled accounts of tenths granted in the province of Canterbury in 1315 and 1316 and of five pence in the mark from both provinces in 1322 seem to be incomplete.[185] Since all of the taxes were levied on incomes as assessed in 1291 or in 1318, an estimate is not liable to a high percentage of error.[186] Estimated on these bases, the net yield of these subsidies conceded to Edward II by his clergy reached the approximate total of £63,000.[187]

[180] *Register of the Diocese of Worcester during the Vacancy of the See*, pp. 129–132; *Register of Stapeldon*, pp. 413, 414; *Registrum Dunelmense*, i, 122; *Registrum Ricardi de Swinfield*, p. 441; *Parl. Writs*, ii, 2, p. 15. Ramsay omits this subsidy from his computation of the revenues of Edward II: *Revenues*, ii, 92, 148.

[181] The levy was ordered by a provincial synod on 22 May, 1312, for provincial purposes: *Liber Albus of the Priory of Worcester*, ed. J. M. Wilson (London, 1919, Worcestershire Historical Soc.), p. 36. It was given to the king in 1313: *Parl. Writs*, ii, 1, p. 100; Wilkins, *Concilia*, ii, 426. The northern convocation met to debate a similar grant, but I have not learned the result: Wilkins, *Concilia*, ii, 436; *Registrum Dunelmense*, i, 415, 430.

[182] The archdeaconry of Northumberland paid 8*d.* and that of Durham 12*d.*: *Registrum Dunelmense*, i, 636, 641. For the purpose of an estimate I have arbitrarily computed the diocese of York at 12*d.* and that of Carlisle at 8*d.* Ramsay omits this subsidy from his computation of clerical subsidies: *Revenues*, ii, 148.

[183] Wilkins, *Concilia*, ii, 482.

[184] *Cal. Pat. Rolls, 1317–1321*, p. 345; Robert White, *Dukery Records* (Worksop, 1904), p. 383; K.R. Memo. Roll, 16 Edward II, m. 90.

[185] L.T.R. Enrolled Accounts, Subsidies, Aids, etc., no. 3, mems. 3–7.

[186] I deduct five per cent of the estimated gross yield for the cost of collection, exemptions and bad debts.

[187] Estimated as follows:

(1)	Fifteenth, 1307	£13,125
(2)	4*d.* in mark, spiritualities, Canterbury, 1313	2,555
(3)	8*d.* to 12*d.* in mark, York, 1314	3,095
	Tenth, Canterbury, 1315	15,795
(4)	Tenth, York, 1316	3,920
	Tenth, Canterbury, 1316	15,795
(5)	Tenth, York, 1319	2,740
(6)	5*d.* in mark, 1322	5,788
	Total	62,813

Ramsay (*Revenues*, ii, 148) estimates these items as follows: (1) omitted; (2) £895

Of the total yield of tenths paid by the clergy of England and Wales at the papal order during the reign of Edward II the king received ninety-two per cent. and the papacy eight. Of the total of about £255,000 which Edward secured from subsidies paid to him by the clergy of England and Wales twenty-five per cent. was levied at the grant of the clergy and seventy-five per cent. at the papal order. These figures, taken in conjunction with the results of other recent research,[188] necessitate a revision of the traditional view that the reign of Edward II was a period when the papacy increased its sphere of influence in England at the expense of a supine royal authority.

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13*s.* 4*d.*; (3) York omitted; Canterbury £15,874 3*s.* 10*d.*, calling it a reduced assessment; (4) £23,016 19*s.*, including some items from a papal tenth in Ireland and Scotland; (5) omitted, since his sum under that year includes only the tenth of Canterbury levied at the papal order (p. 120); (6) £636 1*s.* 3*d.*

[188] *E.H.R.*, xli, 332–351; xliii, 497–527.

THE ANTI-FOREIGN MOVEMENT IN ENGLAND, 1231–1232

LATE in the year 1231 began a series of attacks upon Italians beneficed in England, attacks with the avowed object of forcing them to give up their livings and leave the country. The manifest sympathy shown for the rioters both among the English clergy and laity encouraged them to continue their attacks, and the movement soon reached such proportions as to threaten the expulsion of all the foreign clergy from the country. Since most of these foreigners had been placed in English benefices by papal provisions the attacks upon them were really rebellion against the Curia itself, and a study of the situation is valuable for an insight into the relations between England and Rome in the early thirteenth century.

Opposition to certain papal policies had been developing in England for some time before 1231 so that the outbreaks at the close of that year could not have been entirely unexpected. The exaction of a tenth of ecclesiastical incomes in 1229 by papal mandate aroused much resentment among the clergy, especially because of the rigor with which the tax was collected, and many laymen disliked the idea of so much wealth being taken out of the kingdom. Yet objection to papal taxation was after all only a minor cause of the outbreaks of 1231–1232, since the factor essentially responsible for these disturbances seems to have been the granting of English church revenues to foreigners by papal mandate, a practice involving many abuses.

The distaste shown by Englishmen for these provision mandates may to some extent be ascribed to their comparative novelty. While such mandates had been issued by popes before the middle of the twelfth century [1] few seem to have been made in England before 1213, and even the holders of some of these had difficulty in gaining possession of their benefices without papal intervention in their behalf.[2] After the submission of King

[1] H. Baier, *Päpstliche Provisionen für Niedere Pfründen bis zum Jahre 1304* (Münster, 1917), pp. 1–12.

[2] *Cal. Pap. Reg.*, i, 4, 16.

John to the pope, however, a steadily increasing number of foreigners were provided with English livings. The opportunity of the Curia came with the dependence of John upon papal favor, and with the control exercised by the papacy over the English government during the early years of the minority of Henry III. Furthermore the presence of papal envoys in England during this period assured the carrying out of provision mandates, and made disobedience by the patrons of churches virtually impossible. Not only the popes but their envoys as well took full advantage of the opportunities afforded. Foreign convents and hospitals also benefited, since the pope induced members of the English clergy, as well as King John and King Henry III, to turn over church revenues to them.[3]

By the end of the year 1231 the number of foreigners thus granted English benefices must have been considerable, and the revenues paid to them undoubtedly constituted a serious drain upon the resources of the English church, even though an accurate estimate of the amount of revenue thus alienated is hardly possible with the records we have.[4] Yet even these incomplete records show that several hundred English livings, at least, must have been in the possession of foreigners, nearly all of whom were Italians, and that every important English diocese contained a number of papal provisors.[5]

[3] One of these monasteries was in possession of at least five English churches: *ibid.*, i, 119.

[4] The papal registers for the period are manifestly inadequate since they do not contain the names of one third of even those foreigners known to have been beneficed in England by 1232. English episcopal registers constitute our principal source of information, but only those for York and Lincoln are available, and even these are obviously incomplete, since not one of the half-dozen foreigners mentioned in the papal registers as being beneficed in Lincoln is noted by Hugh of Wells in his episcopal register as holding a living there: *Rotuli Hugonis de Welles*, ed. W. P. W. Phillimore and F. M. Davis (London, 1907–09, Canterbury and York Society).

[5] The sources for the period 1213–1232 show at least 40 benefices or prebends held by foreigners in the diocese of Lincoln alone, and the number of foreign holdings in other parts of England must have been in proportion, for entries in the papal registers show no more provision mandates for Lincoln than for the other large English dioceses. This would raise the number of benefices and pensions in the possession of foreigners from about 175, a conservative estimate of the number disclosed by the records as held during this period, to between 300 and 400. Undoubtedly this latter estimate likewise is too small since the records even for Lincoln are not complete, and a number of holders of churches mentioned in the Registers of Hugh of Wells may well be foreigners, although we are unable to identify them as such.

While we are unable to estimate with any certainty the burden of provisions upon the English church at large, we possess more definite information regarding the drain upon the revenues of certain monasteries and cathedrals. Thus a complaint by the monastery of Ramsey discloses the fact that in 1228 nearly a quarter of its revenues were being paid out to papal provisors.[6] St. Mary's at York complained in 1233 that it was overburdened by grants to foreigners,[7] and we know of at least a score of other monasteries which were required to fill provision mandates. The burden upon English cathedral churches seems to have been quite as heavy, for at least a quarter of the canons of Salisbury appear to have been aliens.[8] We have more complete data on the situation at Salisbury than in the case of the other cathedral churches, yet even the scanty sources at our disposal show that the proportion of foreign canons must have been large in many of them.[9]

In addition to the drain imposed upon English ecclesiastical revenues by papal provisions, considerable sums of money also found their way to foreigners by grants of the English kings. In some cases these grants consisted of the award of churches, while in other instances they were pensions or gifts from the royal treasury. The dependence of John and Henry III upon the favor of the Curia seems to have been an important factor in such grants. Pensions and gifts were made to papal envoys to England and their servants,[10] to papal nephews, and to a number

[6] *Cal. Pap. Reg.*, i, 120. Ramsey was paying 110 marks a year out of a revenue estimated at 405 marks in 1202: *The Valuation of Norwich*, ed. W. E. Lunt (Oxford, 1926), pp. 12–13.

[7] *Les Registres de Grégoire IX*, ed. L. Auvray (Paris, 1896–1908), no. 1386. At least four of the churches of this monastery were in the hands of foreigners by 1232: *Rotuli Hugonis de Welles*, iii, 164; *The Register or Rolls of Walter Gray, Lord Archbishop of York*, ed. James Raine, Jr. (Durham, 1872, Surtees Society, no. 56), pp. 28, 31, 55.

[8] *Vetus Registrum Sarisberiense, alias dictum Registrum S. Osmundi Episcopi*, ed. W. H. Rich Jones (London, 1883–84, Rolls Series), ii, 37, 41, 76, 104; *Charters and Documents illustrating the History of the Cathedral, City, and Diocese of Salisbury in the 12th and 13th Centuries*, ed. W. R. Jones and W. D. Macray (London, 1891, Rolls Series), p. 229.

[9] There are references to at least a dozen foreigners who held prebends at York (*Register of Walter Gray, passim*), and to a lesser number in other cathedrals.

[10] The legate, Gualo, and his servants were special beneficiaries, Gualo receiving a pension of 20 marks (*Rotuli Litterarum Clausarum*, ed. T. D. Hardy (London, 1833–44), ii (*1224–1227*), 143), and additional grants being made to his nephews Gualo and Mar-

of the cardinals. These pensions burdened the English treasury with the payment of at least several hundred marks a year, and the royal council showed an increasing distaste for them. Several of the pensions granted by John remained unpaid for years in spite of the protests of the pensionaries and even of the pope, although Honorius III secured partial satisfaction in at least one case by threatening the king with drastic action. While Henry declared that he and his council did not consider the king bound to continue the pensions granted by John, he made at least part of the payments demanded.[11] The desire of the royal council to end these grants is shown by the payment of a lump sum of 400 marks to one pensionary to extinguish his claim,[12] and by the refusal in 1231 to grant a pension requested by the pope for a Roman.[13] The hand of Hubert de Burgh is undoubtedly to be seen in the attitude adopted by the English government.

Englishmen might resent the financial burden imposed by provisions but the papacy was convinced of the necessity of the practice for the support of the personnel of the central church organization.[14] The effort was made by the popes on several occasions to justify provisions to Englishmen and to induce acceptance of them. Such an attempt was made by Honorius III in a letter to the archbishop of York in 1220. He pointed out that ecclesiastics who resided at Rome and were members of the central church organization were as necessary for the welfare of the church as were members of the local clergy. To provide them with a suitable income it had become the practice of the

tin, and to Laurence of St. Nicholas, his clerk: *ibid.*, i (*1204–1224*), 384, 387, 581; ii (*1224–1227*), 3; *Patent Rolls of the Reign of Henry III*, printed under the Superintendence of the Deputy Keeper of the Records (London, 1901–03–06), i (*1216–1225*), 76, 422.

[11] W. Prynne, *Records: An Exact Chronological Vindication* . . . (London, 1665–68), ii, 395; iii, 50, 73; *Rotuli Litterarum Clausarum, 1204–1224*, p. 609; *1224–1227*, p. 18.

[12] *Patent Rolls, 1216–1225*, p. 422.

[13] *Royal and other Historical Letters illustrative of the Reign of Henry III*, ed. W. W. Shirley (London, 1862, Rolls Series), i, no. 321; *Close Rolls of the Reign of Henry III*, printed under the superintendence of the Deputy Keeper of the Records (London, 1902–16), i (*1227–1231*), p. 583.

[14] Because its regular sources of income were inadequate the Curia had for some time been in the habit of bestowing benefices upon many of its servants in lieu of salary: Baier, *Päpstliche Provisionen*, p. 112.

papacy to grant them benefices in England and other lands while they continued to perform their duties at the Curia. Churches and ecclesiastics who permitted such provisions to be made should realize that they were benefiting themselves as well as the church at large, since they might expect the provisors out of gratitude to look out for their interests.[15] Gregory IX justified the provision mandates issued by him on the ground of his responsibility for the welfare of the church at large, and the need of rewarding the devotion of his servants.[16] Yet these representations apparently had but slight success in alleviating the hostility aroused by the provision mandates. Even if the papacy had been able to reconcile Englishmen to this drain upon their revenues as justified by the needs of the church at large, there were other abuses connected with provisions which aroused quite as much irritation in England. For these abuses the popes themselves were in large measure responsible.

Many benefices seem to have been awarded to foreigners not so much because of their services to the church at large as out of favoritism. Honorius III thus justified the grant of an English benefice to one of his kinsmen in 1218 on the ground that his failure up to this time to make provision for his relatives had made them feel that he lacked affection for them.[17] Such a motive undoubtedly had much to do with the award of English livings to other papal relatives who were the beneficiaries of provision mandates, some of them thus securing possession of considerable revenues.[18] The cardinals also were permitted to aid their relatives from English revenues,[19] and the popes even au-

[15] *The Historians of the Church of York and its Archbishops*, ed. James Raine (London, 1879–94, Rolls Series), iii, 13; *Register of Walter Gray*, p. 137. Much this same reasoning had been employed by Honorius in a request for a benefice for one of his servants in 1217: *ibid.*, p. 129.

[16] *Vetus Registrum Sarisberiense*, i, 389; ii, 81.

[17] *Regesta Honorii Papae III*, ed. Petrus Pressutti (Rome, 1888–95), nos. 1015, 1663; *Cal. Pap. Reg.*, i, 59.

[18] Nicholas, a relative of Gregory IX, was a noteworthy pluralist (*Register Walter Gray*, pp. 11, 15; *Cal. Pap. Reg.*, i, 116, 140; *Regesta Honorius III*, no. 6191; *Patent Rolls, 1232–1247*, p. 5; Prynne, *Records*, iii, 56) and Stephen, cardinal of St. Adrian, a nephew of Innocent III, also held numerous revenues in England (*Vetus Registrum Sarisberiense*, i, 384; ii, 76; *Rotuli Litterarum Clausarum, 1224–1227*, pp. 18, 156; Prynne, *Records*, ii, 395).

[19] There is evidence that at least a dozen cardinals secured provisions in England for

thorized the granting of provisions to relatives of the lesser officials of the Curia.[20] The papacy also seems to have felt obligated to gratify the requests of its envoys to England for English livings for their servants and kinsmen, even though such permission allowed some of these to become notorious pluralists.[21] Such violations of the principle upon which the papacy professed to base the need of conceding provisions could hardly fail to make the whole system suspect in the eyes of Englishmen.

The Curia also aroused resentment in England by making its provision mandates demands rather than requests, and by forcing donors, even when unwilling, to grant the benefices asked. In a number of cases the pope wrote to a recalcitrant donor insisting upon compliance, and at the same time directed his agents in England to see that the grant be made, using compulsion if necessary.[22] Frequently an English ecclesiastic would be directed to confer the next benefice or prebend which appeared suitable upon some papal nominee, with the threat of suspension from office if he presumed to confer it upon any one else, and the declaration that any other grant would be considered void.[23] Agents named by the pope would then see that this mandate was carried out, and the attitude adopted by them was frequently very high-handed.

The way in which one of these papal agents, John Romanus, subdean of York and himself an Italian provisor, carried out the missions entrusted to him may be regarded as typical. Romanus

their relatives. John, cardinal of St. Praxedis, thus looked out for four of his nephews (*Patent Rolls, 1225–1232*, pp. 452, 462; *1232–1247*, p. 21), while Stephen, cardinal of the Basilica of the Twelve Apostles, did almost as well for his kinsmen (*Register Walter Gray*, pp. 28, 62).

[20] *Rotuli Hugonis de Welles*, i, 124; *Vetus Registrum Sarisberiense*, i, 389–390; *Cal. Pap. Reg.*, i, 130; *Registres Grégoire IX*, no. 946.

[21] Ruffinus, a nephew of the legate Gualo, and Laurence of St. Nicholas, Gualo's clerk, held an exceptionally large number of English benefices, and Gualo's other dependents also were well taken care of. Honorius III authorized Pandulph, while legate, to permit his relatives and clerks to hold a plurality of benefices in England, although the pope warned his envoy to be careful not to allow this concession to become a matter for which the Curia could be reproached (*Regesta Honorius III*, nos. 1618, 2463).

[22] *Cal. Pap. Reg.*, i, 54, 89, 92, 115.

[23] See *Cal. Pap. Reg.*, i, 116, for such a reservation. Roger of Wendover even declares that some papal agents were granted authority to prohibit any English bishop from conferring a benefice until five Romans were provided for: Roger of Wendover, *Flores Historiarum*, ed. H. G. Hewlett (London, 1886–89, Rolls Series), iii, 16–17.

would first order the bishop who had been directed to fill a provision mandate to award no benefice to any one without consulting him.[24] If the living available happened to be too small to be desirable, or if the qualifications of the bishop's candidate seemed to justify a prior grant to him, Romanus might permit the papal nominee to be passed over, but with the stipulation that he was to have an option on the next vacant living.[25] Sentence of excommunication was threatened for any one who failed to obey these commands.[26] While members of the English clergy must have resented this dictatorial attitude of the papacy and its agents, and in some cases have attempted resistance, they seem in general to have obeyed rather than fall under the threatened penalties.[27]

That the provisors themselves were quite ready to accept benefices which had been forcibly extorted from the English clergy was an important cause for their unpopularity. The action of one Italian in returning to the abbey of St. Albans a church he had received from that monastery by papal mandate, on the ground that his conscience would not permit him to retain a living obtained in such a manner, was evidently exceptional. The abbot, at all events, was so astonished by an honesty he had never before observed in a Transalpine that he decided the provisor should keep his church as a reward for such an unusual and meritorious act. The chronicler of this event states in conclusion that while the pope and cardinals applauded the act of the provisor they made no effort to make others take similar action.[28]

The irritation felt by Englishmen at being compelled to fill provision mandates was intensified by the tendency of the Curia to be satisfied with the grant of only the most valuable livings. Even after a foreigner had been awarded a benefice, a donor might be ordered to allow him to exchange it for one of greater value which subsequently had fallen vacant.[29] So greedy

[24] *Vetus Registrum Sarisberiense*, i, 390; ii, 82.

[25] *Ibid.*, i, 389–390; *Rotuli Hugonis de Welles*, iii, 176.

[26] *Vetus Registrum Sarisberiense*, ii, 83; *Rotuli Hugonis de Welles*, ii, 195.

[27] In some instances the threat of suspension must actually have been carried into effect: *Registres Grégoire IX*, no. 871.

[28] Thomas Walsingham, *Gesta Abbatum Monasterii Sancti Albani*, ed. T. Riley (London, 1867, Rolls Series), i, 298–299.

[29] *Cal. Pap. Reg.*, i, 92; *Register Walter Gray*, p. 11.

were foreigners for large benefices that even the holders of general provision mandates scorned any living which was not worth more than twenty marks a year. Such an attitude must have occasioned many protests, for in 1229 Gregory IX judged it expedient to decree that if a benefice worth twenty marks a year was tendered to the holder of such a provision mandate it must be accepted.[30] Yet he still left it possible for a benefice of greater value to be demanded by a specific statement in any provision.[31]

Another annoying practice of the papacy was to require English ecclesiastics to furnish foreigners with pensions, stipulating that they were to be exchanged for benefices of equal or greater value when the latter became available.[32] This was such an easy method of satisfying the demands of papal protégés that it entailed a severe burden upon many English churches and became a legitimate cause of grievance. Some of these pensionaries refused to take benefices in exchange unless they were of considerable value, and this abuse became so flagrant that the papacy was obliged to stipulate that where a benefice was offered equal in value to the pension it must be accepted, or else the pension need no longer be paid.[33]

Very disturbing also to English churchmen was the tendency of the papacy upon the death or resignation of a foreign provisor to grant the benefice he had held to another alien. Whether or not this had become the regular practice of the Curia, as is charged in the chronicle of Evesham, it was certainly done quite frequently in the period before 1232,[34] and Honorius III himself admitted that the patron of such a benefice might well feel that

[30] *Register Walter Gray*, p. 184.

[31] Gregory's directions to the archbishop of York to provide an Italian with a more valuable benefice than the one he already held may be cited as an illustration of this policy. Gregory first stated that this should be worth at least ten marks, but in a subsequent letter ordered that it should be not less than forty marks in value: *ibid.*, p. 61.

[32] *Rotuli Hugonis de Welles*, ii, 129, 203, 212; *Register Walter Gray*, p. 61; *Cal. Pap. Reg.*, i, 125; *Annales Monastici*, ed. H. R. Luard (London, 1864–69, Rolls Series), i, 74; *Cartularium Monasterii de Ramseia*, ed. W. H. Hart and P. A. Lyons (London, 1884–93, Rolls Series), i, 106.

[33] *Cal. Pap. Reg.*, i, 94, 95.

[34] *Chronicon Abbatiae de Evesham*, ed. W. D. Macray (London, 1863, Rolls Series), p. 275. At least a dozen instances of this practice can be found in the records we have for this period.

he had been deprived permanently of his right of bestowal.[35] Because of the resentment aroused in England by this practice [36] Honorius III decreed in 1221 that where a benefice was given up by a foreigner for any reason the pope would not appoint the next holder, but the rights of the patron would be restored.[37] Yet in spite of this decree the practice was continued, and Gregory IX felt it necessary in 1230 to renew the promise of his predecessor, even though the importance of his concession was much weakened by the reservation that where the pope desired he might make exceptions to the decree.[38] Hence Englishmen would seem to have gained little by their protests.[39]

One of the most objectionable features connected with the possession of English benefices by foreigners was that so many of these provisors were far more interested in the revenues to be derived from their livings than in the religious duties connected with them. Where a provision mandate was filled by the grant of a pension the question of religious duties of course did not even enter in. Where a church was granted, the provisor would sometimes farm it out, a practice relieving him both of all spiritual duties and of expenses of administration while assuring him a definite income,[40] or he might turn over part of the revenues of the church to a vicar who would perform the requisite duties and relieve him of responsibility. The matter of the non-residence of a provisor was held by the papacy to be no bar to his right to receive the income from a church, and even though the foreign canon of a cathedral chapter might reside out of England his portion of the revenue must none the less be paid him. Cathedral churches such as Salisbury and York, where so large a proportion of canons were non-resident, were especially inconvenienced, but every attempt of these churches to enforce

[35] *Register Walter Gray*, pp. 137–138.

[36] Stephen Langton seems to have made a special protest against the practice when he went to Rome in 1221: *Annales Monastici*, iii, 74.

[37] *Regesta Honorius III*, nos. 3106, 3107, 3122; *Register Walter Gray*, pp. 137–138; *Cal. Pap. Reg.*, i, 79.

[38] *Registres Grégoire IX*, no. 440; *Cal. Pap. Reg.*, i, 123; *Annales Monastici*, i, 75.

[39] As early as January, 1231, Gregory IX made an exception to this mandate to permit an Italian to succeed another in two benefices: *Registres Grégoire IX*, nos. 552, 553.

[40] *Rotuli Hugonis de Welles*, ii, 129, 212, 217–218; Roger of Wendover, iii, 18; *Charters of Salisbury*, p. 168.

residence upon their canons was frustrated by the opposition of the Curia.[41] Even foreign provisors resident in England seem to have rendered very inadequate services for the revenues they received, for if they did take personal charge of their churches their inability to speak English would require the appointment of a chaplain who could attend to the needs of the parishioners.[42] Furthermore, many of these foreigners were in possession of several English benefices each, some holding half a dozen or more, and in their case the charge of exploitation of the English church by Rome was abundantly justified.[43]

The extensive use which the papacy made of foreign ecclesiastics beneficed in England for the administration of the provision system was another reason for the unpopularity of the Italian provisors. They were able to keep the Curia informed as to benefices falling vacant in England, thus enabling the pope to make a specific demand of these from the patrons,[44] and they were frequently appointed papal agents to compel unwilling English prelates to fill provision mandates. They also acted as proctors for provisors who wished to be installed by proxy in their benefices, and they saw to it that revenues were paid to non-resident foreigners or their representatives. Additional annoyance was caused the English clergy by the use made of these foreigners to keep Rome informed as to English church activities.[45]

Many English laymen resented quite as keenly as the clergy the abuses connected with the beneficing of foreigners in England. Much of the revenue which had been seized by foreign provisors came from lands which had been granted to ecclesiastical foundations by these men or their forbears. They contended that such a disposal of these revenues was contrary to

[41] *Vetus Registrum Sarisberiense*, i, 384–385; *Cal. Pap. Reg.*, i, 114–115.

[42] *Rotuli Hugonis de Welles*, i, 48; ii, 18.

[43] While some foreigners were particularly notorious pluralists, as for example Ruffinus, Laurence of St. Nicholas, and John Romanus of York, the prevalence of the practice is shown by the fact that over one quarter of the foreign provisors known to us during this period held more than one English benefice each.

[44] How close a watch they kept for vacancies is well brought out in numerous provision mandates: *Cal. Pap. Reg.*, i, 115, is an example.

[45] For examples of this activity see *Cal. Pap. Reg.*, i, 125, 127, 130; *Registres Grégoire IX*, nos. 271, 946; *Register Walter Gray*, p. 28; *Rotuli Hugonis de Welles*, ii, 87; iii, 21.

the original purpose of the donors, and hence urged the expulsion of foreigners and the return of the livings to Englishmen. Even more resented was the fact that the Curia had in some cases placed foreigners in benefices the donation of which belonged to laymen without heeding the protests of the donors, and the latter were naturally desirous of ending such a practice.[46]

While both the English clergy and laity were growing more and more hostile to the policy of the Curia in the matter of provisions the attitude of Henry III remained uncertain. English kings had found the award of church revenues an easy and inexpensive method of rewarding their servants, and benefices were granted to Henry's officials not only from churches in his own gift but also as a result of papal provisions. Because of their mutual interest in the matter of provisions a policy of coöperation between pope and king would then seem to be natural. There were some cases of friction in the period before 1232; in one case a papal agent, John Romanus, sought to resist the award of a vacant prebend in Salisbury to a candidate named by the king, on the ground that it had already been reserved for the use of the papacy. Yet when Henry threatened to punish the Salisbury chapter for failure to comply with his command Romanus deemed it wise to yield.[47] Still, this incident seems primarily to have been due to an overzealous papal agent, for in other cases of rival appointments the Curia appears in general to have respected the claim of the king. Both self-interest and his general feeling of dependence upon Rome would thus make Henry an uncertain ally if his subjects determined to resist the Curia in the matter of foreign provisors, although Englishmen would be encouraged by the support of Hubert de Burgh and other members of the royal council who resented the intrusion of foreigners.[48]

The resort of Englishmen to violent measures in 1231 does

[46] *Registres Grégoire IX*, no. 871; Roger of Wendover, iii, 16–17.

[47] *Vetus Registrum Sarisberiense*, ii, 96–100.

[48] The amount of control exercised by Henry III over the English government during this period is difficult to estimate. In many respects Hubert de Burgh was the real ruler of England, even after the king's final coming of age in 1227, but Henry, none the less, had a will of his own, and he seems actually to have governed as well as reigned after December, 1223, even though he relied as a rule upon the advice of his justiciar: K. Norgate, *The Minority of Henry III* (London, 1912), p. 209.

not seem to have been due to any new policy on the part of the papacy in regard to provisions. As has been pointed out, resentment had been developing for some time in regard to both the burden of provisions and the abuses connected with them, and the failure of the Curia to remedy the situation made open resistance appear the only recourse. The resentment of a knight, Sir Robert Twenge, because of the forcible intrusion of an Italian into a church of which he was the donor, may have helped to precipitate matters, but Twenge's activities seem to have been but part of a general anti-foreign movement.

The first evidence of organized resistance is to be observed in the fall of 1231, when letters were sent to English bishops and monastic houses by an organization purporting to represent all those Englishmen who preferred to die rather than longer to be oppressed by the Romans. In these letters a long list of grievances was cited against Rome, most of them due to the provision system, and the intention was expressed of driving from the country those foreigners who were in possession of English benefices. The authors of these letters declared that they were backed in this project by both nobles and commons of the realm. Bishops and monks were warned not to hamper this campaign in any way, under penalty of having their own property destroyed and their persons endangered, and they were ordered to coöperate with the anti-foreign organization by paying over to its agents the rents which were owed to the foreign clergy.[49]

That the conspirators were serious in their intentions was shown by an attack in December, 1231, by a number of men, armed and masked, upon a group of foreign clergy who had just left St. Albans where they had been attending a church council. One Italian, Cincius, was captured and only released several weeks later after the payment of a large ransom, while the others seem to have escaped but remained in hiding in fear of their lives.[50] At about the same time the confiscation of the goods of

[49] Roger of Wendover, iii, 16–18. The authors of these letters declared that they were acting "de communi consilio magnatum." The representation of two swords on the seal with which the letters were signed may have been intended as an indication of a readiness to resort to violence in order to attain the object they desired.

[50] *Ibid.*, iii, 19; Matthew of Westminster, *Flores Historiarum*, ed. H. R. Luard (London, 1890, Rolls Series), ii, 202; the chronicle of Dunstable (*Annales Monastici*, iii, 128)

the foreign clergy was begun. Armed and masked men entered the barns of the Italian provisors, calmly proceeded to thrash the grain, and then gave it away to the poor, destroyed it, or sold it at the best price obtainable. Livestock and other property were disposed of in the same way, barns were burned, and much damage was done. The protests of the proctor of one Roman ecclesiastic because of such treatment brought the sheriff of the region and his men to investigate, but they withdrew when the marauders showed what purported to be letters patent of the king forbidding any one to interfere with them. The pillage of one estate continued for two weeks, the raiders only departing when everything had been taken.[51]

It was not long before the anti-foreign movement began to assume serious proportions. The early acts of violence seem to have been the work of a small group of men under the leadership of Sir Robert Twenge, who sought to conceal his identity by calling himself William Wither.[52] Yet Twenge could hardly have been involved in all the disturbances which took place in many widely separated parts of England in the early months of 1232, and even in the early attacks he appears to have been but the agent of more influential men whose plan was nothing less than the expulsion of the foreign clergy from England.[53]

The campaign of confiscation seems to have been carried out more and more extensively, until all Italian ecclesiastics beneficed in England began to fear the loss of their property. So violent did anti-foreign sentiment become that even papal messengers were attacked, one being killed and another badly beaten, while the bulls they carried were torn and trampled.[54]

declares that several other Romans were also taken and only freed after the lapse of several months. One of those who escaped was John of Florence, archdeacon of Norwich, who had been especially active in the filling of provision mandates for the pope, and aware of his unpopularity he remained in hiding in London for many days.

[51] Roger of Wendover, iii, 19.

[52] Roger of Wendover declares in one passage that Twenge led a band of 24 men (iii, 27), while in another passage he states that he was accompanied by only five armed servants (iii, 28).

[53] *Annales Monastici*, iii, 129; Matthew Paris, *Historia Anglorum*, ed. Frederick Madden (London, 1866–69, Rolls Series), ii, 337.

[54] *Registres Grégoire IX*, no. 806; T. Rymer and R. Sanderson, *Foedera, Conventiones, Literae*, ed. A. Clarke and F. Holbrooke (London, 1816–18), i, 203; *Annales Monastici*, i,

Italians resident in England feared for their lives, and the more notorious pluralists and papal agents, such as John Romanus of York, went into hiding to avoid the wrath of the rioters.[55] Few even seem to have dared to make protests, preferring to lose their property rather than to incur the risk of being slain. The program of confiscation was apparently carried out against other foreigners beside Italians,[56] and even the property of Englishmen was taken in the general confusion.[57]

Little appears to have been done in England to put an end to the state of lawlessness which was fast developing. A council of bishops, to be sure, was held in London during February, 1232, to consider the situation, but even though it decreed the excommunication of those engaged in the outrages the campaign against foreigners seems to have continued unabated.[58] King Henry disclaimed responsibility for these acts of violence when they were brought to his attention,[59] and in fact proceeded to take immediate action by issuing orders to the sheriff of Kent to prevent any repetition of the attacks, and to arrest those who had been implicated in them.[60] Yet even the royal mandate had no appreciable effect, either because of the veiled support given to the rioters by many of Henry's councillors,[61] or perhaps because the king himself became undecided as to the proper course of action when he discovered the extensive character of the anti-foreign movement. There was so much public sentiment in favor of the rioters that if the king and the English clergy were sincerely desirous of ending the attacks their task was bound to be a difficult one.

It was some time, apparently, before this situation came to the

239–240; iii, 128. Robert Grosseteste reports the rumor that several Romans had been killed: *Roberti Grosseteste, Episcopi quondam Lincolniensis, Epistolae*, ed. H. R. Luard (London, 1861, Rolls Series), no. 3.

[55] Gregory IX, when referring to these outrages, declared that members of the foreign clergy had been besieged, taken captive, and forced to ransom themselves by the rioters: *Annales Monastici*, i, 239.

[56] *Close Rolls, 1231–1234*, p. 135. [57] *Annales Monastici*, iii, 129.

[58] Roger of Wendover, iii, 19; Matthew Paris, *Hist. Ang.*, ii, 339.

[59] Matthew Paris, *Hist. Ang.*, ii, 338.

[60] *Close Rolls, 1231–1234*, p. 128.

[61] Matthew Paris, *Hist. Ang.*, ii, 338. Hubert de Burgh was earl of Kent where the first attacks on the property of foreigners had occurred.

attention of the pope, King Henry and the English clergy evidently having failed to inform him of the serious nature of the attacks upon foreigners. Yet when reports of these outrages finally reached Rome they aroused keen resentment,[62] and early in June, 1232, Gregory himself wrote to both Henry III and the higher English clergy, rebuking them for their attitude in the matter and insisting that definite action be taken.

The letter to Henry III shows that Gregory felt the king was in large measure to blame for the failure to end the outrages. In it the pope reproached Henry for the lack of gratitude he was displaying for the benefits which had been conferred upon him by the Curia, and for the watchful care with which he and his kingdom had been protected from enemies both at home and abroad. The murder of a papal messenger had been perpetrated by Henry's partisans, and even with his connivance according to rumor, while the king had at least been guilty of negligence in doing nothing to prevent the attacks made upon the persons and property of foreign ecclesiastics beneficed in England. Henry must punish these evildoers at once that their fate might serve as a deterrent to others, and he must compel them to make immediate restitution for the goods they had seized. Otherwise, declared Gregory, the Roman Church would be obliged to take action against the king in spite of the fondness it felt for him. Yet if Henry should act as the pope desired he might expect further favors.[63]

Gregory's indictment of the English clergy was quite as scathing. In spite of the favors conferred upon them and the safeguarding of their rights by the Curia they had permitted outrages to take place which would be condemned even in heathen lands. Why had they not excommunicated the offenders as they were bound to do by their oath of office, and why had they not come to the assistance of those who had been in-

[62] Grosseteste, at that time canon of Lincoln, postponed a trip to Rome on the advice of some of the English clergy who feared that he might suffer injury at the hands of those desirous of revenging the foreigners who had suffered in the attacks: Grosseteste, *Epistolae*, no. 3.

[63] *Registres Grégoire IX*, no. 806; Rymer, *Foedera*, i, 203. Roger of Wendover (iii, 27) and Matthew Paris (*Hist. Ang.*, ii, 340) declare that Henry was ordered by the pope to take action under penalty of interdict and excommunication.

jured as their Christian duty required them to do? Or if they were deterred from such action by fear, because of the multitude of those implicated in the outrages, why at least had they not professed regret for what had occurred? Gregory urged them to have no fear of the organization responsible for the anti-foreign movement, since it did not even dare to announce the names of its members, and he declared that the charges raised by this organization against the Curia were entirely unjustified. English ecclesiastics should also not be deterred from action by a feeling that their own rights had been infringed by Rome since this could be proven to be without foundation. Gregory declared that those guilty of causing the disturbances against foreigners were known and would be punished, and any members of the clergy who had aided them would lose their benefices. He therefore directed the English clergy to win the guilty back to obedience by arguments and warnings if possible, but if they remained obstinate to excommunicate them on every Sunday and Feast Day until they should be willing to go to Rome to be absolved of their crimes. To compel them to do this the secular arm should be called upon, their benefices should be taken away, and any other method considered desirable should be employed.[64]

In addition to this general admonition to the English clergy Gregory appointed special commissions to see that his commands were carried out, one for the south of England and another for the north. These commissions were to conduct a careful investigation of the outrages, to issue a general sentence of excommunication against those implicated in them, and to send those found guilty to Rome without permitting them to make an appeal.[65] The investigation commanded was soon under way,[66] the general sentence of excommunication was issued,[67] and the names of those implicated in the attacks seem to have been sent to Rome.

The papal commands were also obeyed by the king, and in fact Henry III seems to have taken active steps to end the disturb-

[64] *Registres Grégoire IX*, no. 808; *Annales Monastici*, i, 239–243.

[65] Roger of Wendover, iii, 28; Matthew Paris, *Hist. Ang.*, ii, 340.

[66] *Patent Rolls, 1225–1232*, p. 498.

[67] Matthew Paris, *Chronica Majora*, ed. H. R. Luard (London, 1872–83, Rolls Series), vi, 72.

ances against foreigners even before the receipt of the letter from Gregory rebuking him for his inaction in the matter. On 8 May, 1232, he ordered all the sheriffs, under pain of his displeasure, to have inquiries made in their respective counties, summoning reputable men to give testimony under oath, in order to discover those guilty of the outrages of which complaint had been made. Any found to have been implicated either in the attacks upon foreigners or in the confiscation of their property were to be kept in safe custody or required to provide adequate guarantees that they would appear before the king when summoned. To guard against fraud Henry directed each sheriff to send him the proceedings of the inquiry after it had been made.[68]

This action of Henry was probably taken upon his own initiative, for he seems from the beginning to have been opposed to the campaign against the foreign clergy.[69] Even if he had received no earlier protest from Gregory than that of June, 1232, Henry well knew that the continuance of the attacks would arouse the displeasure of the pope, and he would undoubtedly prefer to run the danger of offending those Englishmen who sympathized with the rioters rather than to risk a breach with the Curia.[70] It is uncertain whether Henry's commands to the sheriffs were acted upon at once, or whether the papal protest in June was needed to obtain action, but certainly by the middle of the summer an investigation of the outrages was well under way by the king's agents.[71]

The result of the investigations conducted by royal officials and the papal representatives disclosed a state of affairs which made any wholesale punishment of the offenders appear inadvisable. Those found to be involved were so many and so powerful that an attempt to punish all of them might well have caused

[68] *Close Rolls, 1231–1234*, pp. 138–139.

[69] Cf. *ante*, p. 196. On 20 April Henry had promised the count of Savoy that his son would be reimbursed for the losses he had suffered at the hands of the rioters and that the guilty would be punished: *Close Rolls, 1231–1234*, p. 135.

[70] The tenor of the papal letter of 9 June would seem to indicate that Gregory had sent Henry no previous communication on the subject of attacks upon foreigners, and this impression is strengthened by the account of the letter given by Matthew Paris (*Hist. Ang.*, ii, 340).

[71] Henry himself intimated that the investigation was being carried out as the result of a papal mandate: *Cal. Pat. Rolls, 1232–1247*, p. 28.

another civil war, the result of which would have been doubtful. Not only were many of the clergy found to be implicated, but also a large number of knights, and even a considerable proportion of the royal officials. So bitter a hostility for the foreign clergy was disclosed that Henry might well hesitate before seeking to punish those who had sought to drive them from England.[72] Furthermore the attacks on foreigners had ceased by this time, perhaps as a result of the activity displayed by the king, and harsh measures would merely have aroused fresh resentment. It seemed best to ignore what had occurred as far as possible.

The attitude taken toward Robert Twenge, who might well have been executed for the part he played in the disturbances, is indicative of this policy. He was granted a safe-conduct by the king that he might come and explain his actions, and when he had stated his grievances against the foreign clergy Henry, instead of punishing him, directed him to go to Rome to plead his case and be absolved from the sentence of excommunication under which he had fallen. Henry even gave him letters to the pope directing that he be given a hearing.[73] Similar safe-conducts were also granted by the king to others, whether laymen or clerics, who had been called or who might be called before the papal representatives conducting the inquiry into the outrages, and with them too Henry appears to have dealt leniently.[74] Those who had purchased grain or other articles from the rioters were, in at least some cases, required to reimburse the foreigners from whom they had been taken, but no other penalty seems to have been imposed.[75]

The royal officials implicated in the disturbances were not, however, treated with the same leniency. A number of sheriffs and their assistants were arrested and thrown into prison, others only escaping by flight, and some officials were ejected from the royal council.[76] The chief victim was Hubert de Burgh, the king

[72] Roger of Wendover, iii, 28; Matthew Paris, *Hist. Ang.*, ii, 340.

[73] *Cal. Pat. Rolls, 1232–1247*, p. 493; Roger of Wendover, iii, 28–29.

[74] *Patent Rolls, 1225–1232*, p. 498.

[75] *Close Rolls, 1231–1234*, p. 112.

[76] *Ibid.*, pp. 12, 183, 189; *Patent Rolls, 1225–1232*, p. 493; *Annales Monastici*, i, 239; iii, 129. At least one of the offenders, Hugh de Shardelawe, was still in prison in February, 1233.

declaring that investigation had shown that he was the one primarily responsible for the outrages. It was charged that he was the author of the forged royal letters which had been shown by the raiders in justification of their acts, and that he had made no effort to stop the outrages or to accept advice in the matter, although his office of justiciar placed upon him the responsibility of maintaining order.[77] On 29 July, 1232, Hubert was removed from his office of justiciar, and later arrested and imprisoned in spite of his efforts to escape. His trial was ordered by the King, and the royal officials named as custodians of his property were directed to reimburse from it those ecclesiastics who had suffered losses as a result of the disturbances.[78]

The pope seems to have shown even greater leniency than the king in his treatment of those found to have been implicated in the attacks. The investigations by his own representatives and the representations of the king must have convinced him that the grievances of the offenders were too well-founded, and those involved too numerous and powerful, to make drastic action advisable, particularly since the disturbances had ceased and since those who had suffered losses were being reimbursed. Roger, bishop of London, and others who were accused of having connived at the outrages were obliged to go to Rome to plead their cases, but there is no evidence that any were severely punished.[79] Even Sir Robert Twenge, in spite of the violence of which he had been guilty, eventually received back the patronage of his church,[80] and Gregory not only failed to punish the arch culprit, Hubert de Burgh, but actually urged King Henry on several occasions to free him from prison.[81]

Gregory also sought to make provisions less objectionable in England by acting against some of the more flagrant abuses

[77] *Cal. Pat. Rolls, 1232–1247*, p. 28; Roger of Wendover, iii, 28, 32; Matthew Paris, *Hist. Ang.*, ii, 343. The Chronicle of Dunstable (*Annales Monastici*, iii, 129) states that the letters patent shown by the raiders had seemingly been issued by Hubert, although Matthew Paris (*Chr. Maj.*, iv, 211) declares they were counterfeit. Matthew Paris further intimates that the charges against Hubert were not well founded, but were inspired primarily by Henry's desire to free himself from Hubert's influence: *ibid.*, vi, 72.

[78] *Close Rolls, 1231–1234*, p. 188.

[79] Roger of Wendover, iii, 47; Matthew Paris, *Hist. Ang.*, ii, 352.

[80] Matthew Paris, *Chr. Maj.*, iii, 612–614.

[81] *Ibid.*, vi, 72; *Annales Monastici*, i, 88; *Registres Grégoire IX*, nos. 1561, 1562, 1563.

connected with them. Hence in July, 1232, he promised that papal agents, who had been empowered to provide English or foreign ecclesiastics with benefices, were not to suspend members of the English clergy from their right to bestow livings without a special authorization from the pope, and he expressed indignation that such abuses had occurred. Furthermore he decreed that no benefice of which a layman was patron might be granted in future without the latter's consent.[82] Gregory also sought to limit the holdings of some of the more notorious pluralists, whose rapacity had been particularly objected to by Englishmen, one of them, Ruffinus, being directed to content himself with benefices which would assure him of a revenue of 200 marks, and to turn back the other livings he held to their patrons.[83]

Yet except for the concession made to secular patrons the reforms ordered by the papacy were very minor in character. Most of the foreign pluralists seem to have been allowed to retain their benefices undisturbed, and any concession made to the English clergy could always be nullified by the insertion of a *non obstante* clause in a provision mandate. Provisions continued to be made to foreigners as before, and they were to remain an ever present grievance for Englishmen. Another concerted attempt to rid England of foreign clergy was to be made in 1245 when the nuncio, Martin, was driven from the country and a violent protest was made to the Council of Lyons, but this effort likewise was unavailing.

While the anti-foreign movement of 1231–1232 failed to secure the ends at which it aimed, it is none the less of considerable significance in English history. The existence of an organized movement to end the alienation of English church revenues to foreigners, the readiness to resort to violence to attain this object, and the sympathy displayed for the rioters by so many Englishmen, mark a crisis in the relations of England and Rome. Resentment at the policy adopted by the papacy in England must have developed to a high pitch when the anti-

[82] *Register Walter Gray*, p. 166; *Registres Grégoire IX*, no. 871; *Cal. Pap. Reg.*, i, 130.

[83] *Ibid.*, i, 132, 140. The agents entrusted with this task by the pope deprived Ruffinus of all but three benefices: *ibid.*, i, 145.

foreign movement could even extend to attacks on papal envoys and agents. It was evident that many Englishmen disliked the subordination of their church to Rome, and were desirous of reducing interference of the papacy in English ecclesiastical affairs to a minimum. It is also possible to see in this movement the beginnings of a spirit which might almost be called national in character. When members both of the clergy and the laity united to resist the pretensions of what was felt to be a foreign power they were beginning to act together as Englishmen. Of course the part played by the anti-foreign movement of 1231–1232 in the development of English nationalism should not be overstressed, and yet it had a significance for this development which ought not to be disregarded.

HUGH MacKENZIE

HENRY V'S POLICY OF CONCILIATION IN NORMANDY, 1417–1422

Operations in enemy territory are always difficult because of the hostility of the local population; they become doubly so when the invader's aims are such that he feels it necessary simultaneously to terrorize, to conquer, and to conciliate the inhabitants of the region in which he is campaigning. It is a recognized principle of soldiering that the commander of an army occupying conquered territory will follow a policy of combined severity and conciliation. In this way he safeguards his own position while interfering as little as possible with the customary peaceful pursuits of the people. The maintenance of order is a primary consideration, in regard both to the soldiers of the conquering army and to possible local malcontents. When possible, the establishment or continuation of a non-military local administration capable of enforcing the laws is desirable. This is merely the application of common sense to the practical solution of very concrete problems. It is indicative of the military capacity of Henry that he apparently attempted consistently to apply these principles to Normandy during his conquest of that region.

To what extent, if any, he sought to appeal to the peculiar susceptibilities of the locality must be a matter of conjecture. A Norman scholar credits him with aiming to appear as successor to the Plantagenet King-dukes, restorer of the duchy's autonomy.[1] Such a policy might seem calculated to appeal to the local pride of a province which had been resisting for half a century the extension of French royal authority.[2] Certainly

[1] R. Sauvage notes the revival of the ancient office of seneschal, abolished by Philip Augustus: "Une procédure devant la sénéchaussée de Normandie en 1423," *Mémoires de l'Académie des Sciences de Caen* (Caen, 1910). See also L. Puiseux, *L'Émigration normande et la colonisation anglaise en Normandie au XV^e siècle* (Caen, 1866), p. 3.

[2] A. Coville, *Les états de Normandie, leurs origines et leur développement au xiv^e siècle* (Paris, 1894), and *Les états de Normandie, au commencement du règne de Charles VI, 1380–1382* (Caen, 1887); L. Mirot, "Les insurrections urbaines en Normandie à la fin du XIV^e siècle," *Revue des études historiques*, November–December, 1902, pp. 558–582; A. Chéruel, *Rouen pendant l'époque communale* (Rouen, 1844), ii, 6.

the Normans were disaffected in 1417, as is shown by their receptiveness to Burgundian propaganda and their willingness to revolt.[3] Such disaffection no doubt proceeded from the burden of taxation,[4] the debasement of the coinage, and the inability of the French authorities to maintain order throughout the countryside;[5] and John the Fearless promised the restoration of ancient liberties and the abolition of gabelles, *quartages*, and impositions on merchandise.[6] These were promises, however, which the English conqueror could and did attempt to perform more effectively than any French prince.

Henry's difficulties arose from the necessity of overcoming resistance and allaying popular panic while posing as the rightful ruler ready to preserve the liberties of his subjects. His issuance on 27 January, 1416, of letters patent to the Earl of Dorset, captain of Harfleur, at that time the highest English official in Normandy, empowering him to confirm the rights and privileges of persons and towns in the duchy and to receive the homage of Henry's subjects there,[7] may be taken as indicating at that

[3] For the propaganda see Dom Plancher, *Histoire générale et particulière de Bourgogne* (Dijon, 1739–81), iii, 303; *La chronique de Enguerran de Monstrelet*, ed. Douët d'Arcq (Paris, 1859, Société de l'histoire de France), iii, 220; Arch. Nat. X^{1a} 8603, fol. 17v. For the revolt at Rouen see G. du Fresne de Beaucourt, *Bulletin de l'histoire de Normandie* (Rouen, 1884), iii, 330–335.

[4] A. Coville, *Recherches sur la misère en Normandie au temps de Charles VI* (Caen, 1886), pp. 17–24; B.N., Portefeuilles de Fontainieu 109–110, fol. 362; MS. fr. 25709, nos. 732, 751.

[5] *Chronique du religieux de Saint-Denys*, ed. L. Bellaguet (Paris, 1844), vi, 88–90; Jean Jouvenel des Ursins, "Histoire de Charles VI, roy de France, . . ." in Michaud et Poujoulat, *Mémoires pour servir à l'histoire de France* (first series, Paris, 1836), ii, 534–537; Pierre Cochon, *Chronique normande*, ed. C. de Robillard de Beaurepaire (Rouen, 1870, Société de l'histoire de Normandie), p. 376. The French government made the English invasion and the extirpation of brigands the occasion for further taxation: B.N., MS. fr. 26041, no. 5060; Brit. Mus., Add. Ch. 6801, 6803. The King's men-at-arms were also a cause of complaint: A. Chéruel, *Histoire de Rouen sous la domination anglaise au quinzième siècle* (Rouen, 1840), pièces justificatives, p. 24, citing Arch. de Rouen, registre U, fol. 131; Coville, *op. cit.*, pp. 8–11.

[6] *Saint-Denys*, vi, 74–76.

[7] "Rôles normands et francais et autres pièces tirées des archives de Londres par Bréquigny en 1764, 1765, et 1766," no. 69: in *M.A.N.* (Paris, 1858), vol. xxiii. Hereafter referred to as Bréquigny. There would seem to be an intent to emphasize the separate position of Normandy in the French kingdom and Henry's claim to be rightful duke as well as King in the wording of a commission to Fitzhugh and Neville, 24 October, 1417, empowering them to take possession of places "tam infra ducatum nostrum Normanniam quam regnum nostrum Franciam": T. D. Hardy, *Rotuli Normanniae* (London, 1835), p. 189.

early date the conciliatory policy which he was prepared to follow. But in addition to the memories of earlier English attacks [8] and the terrors normally attendant upon a foreign invasion, the Normans were apparently panic-stricken at the reputed size and invincibility of the army of 1417, while their fears were increased by tales of the ruthless atrocities perpetrated by the English.[9] In consequence many fled into Brittany.[10] How to quiet these alarms and at the same time restore and maintain order was the problem which confronted the English King.

It would seem to be in September, 1417, immediately following the fall of Caen, that Henry formally declared his policy of conciliation.[11] His success so far had been striking. His opponents were impotent. It was the psychological moment to assume the rôle of the benevolent conqueror coming into his own. With the advice of his council he caused to be proclaimed that all those who returned to their homes and swore allegiance to him would be assured the royal favor, the enjoyment of their possessions, and the right to carry on business in the conquered country even if they were Frenchmen or foreigners. Commissioners to take allegiances and to issue *testimoniales de fide* were appointed, and, to emphasize the contrast between the old and the new régime, a relaxation of the unpopular gabelle was accorded.[12] That the

[8] Coville, *Recherches sur la misère*, pp. 7–9.

[9] *Saint-Denys*, vi, 100, 108, 164, 166; Titus Livius, *Vita Henrici Quinti, Regis Angliae*, ed. Thos. Hearne (Oxford, 1716), p. 34; *Chronique de Bec*, ed. Abbé Porée (Rouen, 1883, Société de l'histoire de Normandie), p. 83; Thomas Basin, *Histoire des règnes de Charles VII et de Louis XI*, ed. J. Quicherat (Paris, 1853–59, Société de l'histoire de France), i, 26–27, 33; *Chronique d'Antonio Morosini*, ed. G. Lefêvre-Pontalis et L. Dorez (Paris, 1898–1902, Société de l'histoire de France), ii, 147–149.

[10] Alain Bouchart, *Les grandes croniques de Bretaigne* (Rennes, 1886, Société des Bibliophiles Bretons), fol. 174v.; *Le livre des comptes de Thomas du Marest*, ed. C. de Beaurepaire (Paris, 1904), pp. 143–144.

[11] Presumably this proclamation was prior to 21 September, 1417, since on that date there is record of the submission of 483 Norman parishes and the extension to them of the royal protection: Hardy, pp. 331–347. Caen castle was evacuated the day before (*ibid.*, p. 165), having surrendered 9 September (*ibid.*, p. 287). A month earlier (20 August) the king had commissioned Talbot and Umfraville to extend the royal protection to all who submitted in the castles and towns which surrendered to them (*ibid.*, p. 150). Did this foreshadow the general policy or is it merely an example of its application? Presumably the former, since it precedes the assault on Caen. In the surrender of Creuilly (22 August) the inhabitants of the twenty-eight towns of the lordship who submitted were taken into the royal protection with all their goods (*ibid.*, p. 151).

[12] Livius, *op. cit.*, pp. 42–43; Chaplain, *Henrici Quinti Regis, Gesta*, ed. B. Williams (London, 1850), pp. 115–116; Elmham, *Vita et Gesta Henrici Quinti Anglorum Regis*, ed.

character and purpose of Henry's policy became widely known is indicated by the reports which reached Paris to the effect that the Normans were convinced of Henry's invincibility and were disposed to seek his favor in order to live in peace. Members of the French garrisons in Normandy, seeking their ransoms after surrendering to the English, brought word that Henry, although haughty in manner and reputed to be vindictive, was none the less kingly, and although he was implacable towards the rebels, yet he treated the submissive with benevolence.[13]

The success, however, of a conciliatory policy must necessarily be proportionate to continued military success, since other strong towns were still able to resist despite the fall of Caen. Henry, consequently, made no effort at this time to discourage emigration. Those citizens of Caen who would not swear allegiance were free to depart under the terms of surrender, although by implication their abandoned property, both real and personal, was subject to confiscation,[14] and some considerable number availed themselves of this grace.[15] At Bayeux, where there had been no resistance, permission was accorded to carry away movable property. Safe-conduct was provided for two hundred wagons, and fifteen days were granted to the inhabitants to effect the removal.[16] But to the citizens who came into Henry's allegiance the King guaranteed the maintenance of all the town privileges and franchises as well as the enjoyment of all their

T. Hearne (Oxford, 1727), pp. 117–118. These passages indicate the relationship between these three authors. Reading the three together one gets the impression that Livius is the original and that he wrote from the text of the royal proclamation. What the action in regard to the taxes was is obscure and there is no other mention of such action at this time. When we note, however, that in June, 1417, the gabelle had been increased 6 l.t. the measure (B.N., MS. fr. 25709, no. 751) we may surmise perhaps that it was this increase which was dropped. At the end of December, 1415, the gabelle had been raised to 30 l.t. the measure to run until 1 January, 1417 (*ibid.*, no. 732, with copy in Portefeuilles de Fontainieu 109–110, fol. 362). Was the June increase in addition to this or merely a renewal after six months of the old rate? It hardly seems likely that these writers would confuse their chronology to the extent of referring at this time to the proclamation about the gabelle of 4 May, 1418; cf. *post*, note 55. For various levies of taxes prior to the English invasion see Coville, *Recherches sur la misère*, pp. 17–22.

[13] *Saint-Denys*, vi, 162.

[14] Hardy, p. 287.

[15] *Ibid.*, p. 166. A thousand persons received safe-conduct to withdraw to Falaise, but this included the garrison.

[16] 9 September, 1417: Bréquigny, no. 231.

movable and immovable property.[17] To speed up the process of pacification captains sent out on minor expeditions were commissioned to admit all who wished into the King's allegiance and to extend to them the royal protection.[18]

Quite apart from the sentiments of loyalty, which cannot be ignored, the dilemma confronting the Normans as long as the issue of the campaign remained doubtful will be apparent. Too ready submission to Henry would be regarded as treasonable when French rule was reasserted. The extent and duration of English success, judging by the past, was not likely to be great or long. To accomplish his purpose, therefore, the English King must continue to demonstrate his conquering power, while at the same time remaining patiently gracious to those Normans who sought to evade submission. At Argentan, according to Perceval de Cagny, who writes as a loyal follower of the Duke d'Alençon, the citizens had lived so happily under the Duke's just rule that they were unwilling to abide under any other lord. So, although assured their property, they preferred to withdraw into Anjou and Maine with such belongings as they could carry,[19] and the English records show seventeen hundred persons departing under safe-conduct from Argentan,[20] and over two thousand from Alençon, besides a general safe-conduct for all those outside the city departing with their goods in carts.[21] This would seem to indicate a considerable migration which, it has been assumed, alarmed Henry and led eventually to sterner measures and to curtailment of the right to emigrate.[22] It has similarly been assumed that the insertion in the terms for the surrender of Laigle of special articles, stipulating that all those

[17] 19 September, 1417 (Hardy, p. 167). On the basis of these assurances the town enjoyed its franchises until 4 June, 1440, when Henry VI confirmed them: Bréquigny, no. 1341.

[18] Hardy, pp. 154, 157, 171, 175.

[19] *Chronique de Perceval de Cagny*, ed. H. Moranville (Paris, 1902, Société de l'histoire de France), p. 111.

[20] Hardy, pp. 175–176. [21] *Ibid.*, pp. 187–188.

[22] Puiseux, *op. cit.*, pp. 16–20. This author points out that the permission to leave and to take their possessions with them is accorded mostly in the earlier capitulations, but it was a policy which certainly was continued in the Cotentin and elsewhere until the fall of Cherbourg. See terms for Chambois, Hambye, La Rivière de Thibouville, Saint-Lô, Coutances, Hommet, Neuilly-l'Evêque, and Cherbourg in Hardy, pp. 293–300: Bréquigny, nos. 84, 85, 142, 221.

who had fled through fear of the English might return and resume possession of their movables without paying ransom, was an effort to discourage migration.[23] But this does not seem probable when we observe that this last is an isolated item incidental to a minor expedition conducted by Fitzhugh and Neville and not by the King. Presumably it refers to a local situation.

It is to be noted, however, that beginning with October, 1417, details for effective pacification begin to appear in conjunction with the policy of conciliation. Fitzhugh and Neville, who were operating along the Norman borders towards Verneuil, were given full powers to receive towns, castles, and individuals into the royal allegiance and to maintain liege men in the possession of their property, but they were to make exact report to the King of what they had done.[24] Records of those who took the oath were evidently being kept. At about the same time Talbot, as captain-general of the marches, proclaimed that all persons under the royal protection were to apply for and receive letters of allegiance within eight days. Anyone after that time who lacked such a letter could be captured and held for ransom.[25] It cannot be overlooked that both of these commands were in the frontier regions where the difficulties of war conditions would be most marked. It also seems probable that these regulations must be associated with Henry's policy of discipline in his own army. The army *ordonnances* which we have are of 1419 so we cannot apply their details to this campaign, but we know that his men were ordered not to take provisions from Normans who had taken the oath, without making satisfactory payment. We also know that during this period the army pay was in arrears.[26] Desertion had already called for administrative action.[27] For

[23] Puiseux, p. 52; Hardy, p. 306. [24] 16 October, 1417: Bréquigny, no. 1357.

[25] Talbot was appointed, 1 October, 1417 (Hardy, p. 171). This proclamation is dated 20 October (*ibid.*, p. 368 and p. 187).

[26] Soldier letters of January and March, 1418: A. Collins, *The Peerage of England*, 5th ed. (London, 1779), viii, 109.

[27] 29 September, 1417, Henry to the sheriffs (Hardy, p. 329). The surrender of English traitors was ordinarily stipulated in the terms for surrendering towns and castles, but it seems likely that this was a somewhat conventional formula rather than an indication that there were large numbers of renegades. The special proviso in the surrender of Falaise that all men, not of Falaise, who have fought Henry in any other place in Normandy, are to be at his mercy, presumably applied more generally to French men-at-arms rather than to Normans: Bréquigny, no. 254.

the individual soldier war was a form of remunerative adventure in which loot and ransoms probably more than pay provided the profit. He had to provide his own supplies either by purchase or capture. A too rigid discipline in the interests of the Norman populace would make for discontent in the army and stimulate desertion, while encouraging the Normans to evade formal submission as unnecessary. The *ordonnance* requiring letters of allegiance would serve to bring pressure on every Norman to take the oath, and would enable the English soldiery to profit at the expense of the King's real enemies.[28] It also meant that those who took the oath and then joined the enemy could be treated with a severity which might discourage similar action on the part of others, and it is to be observed that royal commissions in November and December, 1417, include authority to take and punish rebels.[29] Commissioners were appointed in December to punish brigands.[30] It has usually been assumed that these rebels and brigands were Norman patriots resisting the invader to the death. In this connection, however, it should be remembered that the French government had been vainly struggling to suppress brigandage prior to Henry's invasion,[31] so that these measures would be ones taken in the interests of local order and efficient government as well as being war measures against patriotic guerillas. That a general condition of local disorder and brigandage existed apart from the activities of loyalists is apparent in the commission issued in January, 1418, to the Burgundian leaders north of the Seine half a year before Henry invaded that region, in which they were specially empowered "de prendre, emprisonner et chassier, et faire vuidier hors des diz pais iceulx noz ennemis adversaires, rebelles, gens de compagne,

[28] There would always be difficulties from the refusal of the men-at-arms to recognize the validity of the letters of allegiance. See royal letter of 6 December, 1417, to the seneschal of Bayeux (Hardy, p. 369). Complaints on this score persisted.

[29] 14 November, 1417 (Hardy, p. 201); 27 December, 1417 (*ibid.*, p. 223).

[30] *Ibid.*, p. 223. On 18 January, 1418, the English captains at Tanis, a frontier castle south of Alençon, were authorized to hang all brigands in their custody or taken later (*ibid.*, p. 238).

[31] *Saint-Denys*, vi, 88–90; Jouvenel des Ursins, pp. 534, 537; Brit. Mus., Add. Ch. 6801, 6803; B.N., MS. fr. 26041, no. 5060; Bibl. de Rouen, Y29, t. 2, no. 48; *Catalogue analytique des archives de M. le Baron de Joursanvault* (Paris, 1838), p. 348, no. 1933.

pilleurs, robeurs et aultres gens malfaicteurs." [32] Nor can Henry's measures be dissociated from the problem of desertion when we find allusion at a later date to vagabond soldiers ravaging the country and subject to no authority,[33] and directions to the commissioners to punish brigands according to the army regulations as well as the laws of Normandy.[34]

With the fall of Falaise in February, 1418, English military success and prestige warranted increased effort to induce wavers and absentees to submit to the conqueror, effort backed up with coercion. Proclamation was ordered 4 February to the effect that all those who wished to submit should apply for safe-conducts to come to the English King and swear allegiance.[35] This was followed a fortnight later with another proclamation that all those who had submitted and come into Henry's obedience should betake themselves to their homes before the end of the month, on pain of being treated as brigands and enemies. Under this decree local inquests were to be held to discover what persons were not at home on the last day of February, and their names given to the English authorities.[36] Since these proclamations were issued through the vicomtal administration they would, at this time, reach a somewhat limited area; [37] it was necessary, therefore, to supplement them by other action in the other sections. Gloucester and Huntingdon, who were subduing the Cotentin, and Clarence, who was acting for the King on the frontier of Auge toward Rouen, were ordered, on 21 March, 1418, to proclaim that all brigands or other absentees in hiding who would appear before the King before 3 April to take the oath would be pardoned and assured the possession of their property.[38] At the same time Warwick, who was operating against Domfront in a frontier region troubled by guerillas and raiders, was authorized to receive allegiances and guarantee

[32] *B.E.C.*, xxxvi, 312.

[33] Bréquigny, nos. 995, 1039; *Calendar of the Norman Rolls* in *Reports of the Deputy Keeper of the Public Records*, xlii, 452.

[34] *Cal. Norm. Rolls, op. cit.*, xli, 719. [35] Hardy, p. 365.

[36] Hardy, p. 365; 8 February, 1418, order to the *vicomte* of Caen: B.N., MS. fr. 26042, no. 5248.

[37] They were issued to the *vicomtes* of Bayeux, Caen, Falaise, Argentan, Alençon, Saint-Silvin, Exmes, Bernay, Auge, Orbec, and Condé-sur-Noireau: Hardy, p. 365.

[38] *Ibid.*, p. 382; *Cal. Norm. Rolls, op. cit.*, xli, 708.

possessions apparently without recourse to the King.[39] Similar full powers to admit all who wished to come into Henry's obedience were extended to Clarence on 4 April with authority to assure the retention of all feudal rights and possessions within the *vicomtés* of Auge, Orbec, and Pontaudemer and in the regions toward Paris, provided the King had not previously granted them to someone else.[40] This was followed, a week later (12 April), by the proclamation of a general safe-conduct under the great seal. In this the King, asserting his desire to relieve his people from the calamities of war, decreed that all who enjoyed a yearly income of 60 l. t. should enjoy their property on condition of returning to their homes with their families and swearing fealty by the first of June. Exceptions were made of those who had houses and property in Caen, and those who were then defending Cherbourg, Domfront, Bec-Hellouin, and Neuilly-l'Evêque against the English. Further exception was made in regard to the lands and property which the King had already granted to other holders, while houses and lands at Falaise were reserved in the King's hands. Persons availing themselves of this opportunity must take the oath of allegiance within eight days of their return, at which time they would receive their *bullettes* on payment of only 10 d. t. Special assurances were given that Normans who had been captured and held for ransom but had escaped from their captors and fled the country might return without fear of recapture. Gentlemen, however, who had given their parole in similar circumstances were not to be released from their obligations by swearing allegiance. They were guaranteed against arrest but their captors could bring action against them under the law of arms before the King's justices. Special assurances were given the clergy to the effect that those who would be loyal could return to possess their houses and property, and to enjoy their benefices and revenues.[41] To facilitate submission, and probably to correct abuses which were arising, special orders were issued 16 April, 1418, directing the Eng-

[39] 30 March, 1418: Bréquigny, no. 1187. Gloucester, Clarence, and Huntingdon had authority to receive allegiances: Hardy, pp. 248, 254, 382.

[40] Bréquigny, no. 95.

[41] T. Rymer, *Foedera, etc.*, 3rd ed. (The Hague, 1739–45), iv, 3, p. 47.

lish captains not to capture Normans coming under safe-conduct to the King to swear fealty within the time specified in their safe-conducts, and ordering them to proclaim that no Englishman was to molest the King's Norman subjects. The difficulties of the situation will be obvious from these orders. Still further to avoid friction between the men-at-arms and the Normans, Gloucester and the *bailli* of the Cotentin were authorized to issue *bullettes* under their own seals and send them to those who swore fealty, keeping a record of the names. Before the end of the month similar powers were extended to the *baillis* of Caen and Alençon, and in the following month the President of the Norman Exchequer received like authority.[42] This would eliminate much travelling to and fro by submissive Normans and would accelerate the process of pacification. The new English administration was apparently prepared to follow up these measures with local inquests regarding absentees, and to make some effort to spread officially the information which was obtained.[43] It was equally ready when the question of allegiance was raised in individual cases to hold inquest and to give official certification in favor of faithful Normans.[44] Obviously, however, many of those who swore allegiance would have to come to the King to do homage. Either to facilitate this or to relieve Henry, engrossed with the siege of Rouen, the Earl of March as royal lieutenant in Caen and the Cotentin received full power to receive the homage of those who had sworn allegiance, and to confirm them in their property, and the Norman Exchequer was directed to issue letters patent according to the Earl's arrangements. But such homage must be repeated before the King at the next Easter.[45]

It will be apparent from allusions and provisos in these documents of April, 1418, that Henry was beginning to apply pressure upon recalcitrant Normans by threats of confiscation. Presumably in this connection, also, the desirability of making the war

[42] *Cal. Norm. Rolls, op. cit.*, xli, 487, 708–710.

[43] See letter of 31 August, 1418, addressed by the "garde du seel des obligations" of the *vicomté* of Coutances to all and sundry informing them that the heirs of Henry de St. Denis have been absent from Normandy and "non obbeissans au Roy" since before Easter: B.N., MS. fr. 26042, no. 5287.

[44] 18 January, 1419, certificate of *vicomte* of Bayeux: Brit. Mus., Add. Ch. 75.

[45] 18 November, 1418: Bréquigny, nos. 240, 241.

profitable to his loyal followers entered in, because it must be remembered that the military effort which the English were making was more continuous, and therefore more burdensome to the individual captains, than any they had known before. Prior to the fall of Falaise, however, the granting of fiefs confiscated from rebel Normans had been limited. Only fourteen grants were made, and one of those to a loyal Norman, at the expense of ten rebellious absentees.[46] But between the fall of Falaise and 1 June, 1418, the date for submitting under the proclamation of 12 April, some eighty-two grants of fief were made to fifty-six Englishmen and three Normans at the expense of sixty-eight rebels and eleven dead men. This would suffice no doubt, as an example to the Normans and a promise for the English until the campaign against Rouen was finished, so there is a marked abatement in making grants during the last half of 1418 (i.e. before the fall of Rouen). Only twenty-eight fiefs are granted to nine Englishmen and eleven Normans during this period. It is perhaps worthy of note that, aside from a dozen of the most notable English leaders, most of these fiefs (two-thirds to three-fourths) were granted to men who were not even captains of companies in the original army.[47] From this we may infer a policy seeking to create in Normandy an English petty nobility and gentry which would be chiefly interested in the duchy.

No exceptions were made in regard to absentee churchmen. The vicar-general for the Bishop of Coutances was expressly forbidden to send any of the diocesan revenue to his lord until further orders,[48] while not even direct request from the Pope himself could persuade Henry to allow the absentee Bishop of Bayeux to enjoy the income from his see.[49] Lesser clergy who failed to swear fealty were subject to similar pressure.[50]

Increased severity may also be noted in the terms imposed

[46] The other four were at the expense of the Duke of Orleans, the Count and Countess of Penthièvre, and a dead man.

[47] See Hardy and Bréquigny, *passim*, and compare with Table of Captains in Harvard University Library, HU 90.1215, appendix VII.

[48] 14 April, 1418: *Cal. Norm. Rolls, op. cit.*, xli, 709.

[49] Rymer, iv, 3, pp. 42 and 45; *Cal. Norm. Rolls, op. cit.*, xli, 681; *Gallia Christiania*, xi, 378–379.

[50] 7 May, 1418: *Cal. Norm. Rolls, op. cit.*, xli, 684.

upon Évreux, 20 May, 1418, by the Duke of Exeter, although apparently there was no resistance. There was no provision for departing from the city even for the fighting men. All were to take the oath of allegiance or be held for ransom, while all rebels or renegades who had taken the oath before and then broken it were to be at the King's mercy. The goods of rebels and absentees were to be surrendered, but the citizens, on taking the oath, were to be undisturbed in their residences and were assured their property if it had not already been disposed of by the King. Nevertheless, for having waged rebellious war they were humbly to seek pardon from the Duke and to provide eighty hogsheads of wine for the English soldiers. In return the Duke promised to use his influence to persuade the King to guarantee to Évreux such privileges as he had accorded to other Norman towns.[51]

Apparently Henry was acting towards towns as towards individuals, guaranteeing to those that submitted the franchises which they had had on the date of his landing. On 24 March, 1418, he had guaranteed to Falaise its former liberties, reserving to himself land outside the walls for digging ponds to improve the defenses, and to determine these liberties he ordered an inquest.[52] On 11 April, 1418, the royal agents made report to the King's council, setting forth the privileges with documentary proof and the statements of witnesses.[53] Similarly the English King was prepared to permit the towns to levy the customary *aides*, the local tariffs on beverages for maintaining the local fortifications. The earliest of these, and indeed the only one before the fall of Rouen, is of 19 May, 1418, issued in favor of Vire, on the ground that it had been the custom previously and that Henry revived it at the request of the citizens.[54] But in order to

[51] Bréquigny, no. 164. Is this really a development of policy or is it the vigorous action of a captain newly come from England and therefore likely to be contemptuous of a "soft" policy towards the enemy? One suspects that the English army and its captains may not have regarded even the loyal Normans as fellow-subjects. Two days after the surrender Henry issued letters patent granting their goods and movables to the clergy and inhabitants of Évreux: Brit. Mus., Add. Ch. 73.

[52] F. Galeron, *Statistique de l'arrondissement de Falaise* (Falaise, 1826–29), p. 89.

[53] Bréquigny, no. 109.

[54] *Ibid.*, no. 167. For a list of the other "aides" see R. A. Newhall, *The English Conquest of Normandy* (New Haven, 1924), p. 172, note 135.

appear in an even more attractive rôle the conqueror, in addition to confirming the *status quo ante*, aimed also to offer an improvement on the French rule by a reduction of the gabelle. 4 May, 1418, he decreed that in the regions he had reconquered, for all his subjects who had sworn allegiance or who would do so by the end of the month, the salt-tax was reduced from fifty per cent *ad valorem* to twenty-five per cent, and the rule requiring the purchase of a certain quantity of salt was abolished.[55]

It was the success of the campaign which opened in June before Louviers which would determine the extent to which the English policy was to be successful. We have already noted the increased severity imposed upon Évreux. This was carried further at Louviers after a siege of two weeks, when the payment of an indemnity of 8000 crowns was made the punishment for resistance,[56] although the King was as ever willing and prompt to give assurances to all in the town who were prepared to submit.[57] It culminated in the crushing terms imposed on Rouen after its long resistance.[58] Henry was also prompt to encourage submission by quick action against the seditious, beheading at Louviers those guilty of conspiring to admit the Burgundians from Vernon, and taking similar action later at Rouen and Dieppe.[59]

Efforts to maintain order throughout the country, to suppress brigandage, prevent desertion, and restrain the licence of the soldiers became more evident during the year 1418. A special force to deal with brigands was formed in April,[60] and a series of orders were issued to such persons as the *baillis* of Alençon and the Cotentin, and the commanders at Harfleur, Pont de l'Arche, Pontorson, and Avranches to search out robbers and to hold them in prison until further orders. This last, by implication, indicates the clash between the royal interest in local peace and

[55] Rymer, *op. cit.*, iv, 3, p. 51.

[56] Bréquigny, no. 1004. The punitive measures at Falaise were directed only against the garrison of the castle and not against the citizens.

[57] *Ibid.*, no. 208. [58] Rymer, *op. cit.*, iv, 3, p. 82.

[59] P. Le Cacheux, *Actes de la Chancellerie d'Henri VI concernant La Normandie sous la domination anglaise, 1422–1435* (Paris, 1907, Société de l'histoire de Normandie), i, 17–20; *Cal. Norm. Rolls, op. cit.*, xli, 716; Bréquigny, nos. 654, 1261; Elmham, *op. cit.*, p. 226; *Mémoires de Pierre de Fenin*, ed. Dupont (Paris, 1837), pp. 104–105.

[60] *Cal. Norm. Rolls, op. cit.*, xli, 709.

the soldiers' interest in ransoms.[61] A permanent commission was formed at Falaise to punish all brigands imprisoned there according to the laws of the duchy and the army regulations.[62] By royal order the *vicomtes* were to proclaim that all who had suffered at the hands of the English soldiers could get redress at the vicomtal court.[63] But in describing the situation in the autumn of 1418 Henry had to admit that Normandy suffered from a "multitude of brigands and other enemies that were always busy to the destruction of the people that obey the King." It was also a matter for discouragement that "no man of estate [has] come in to the King's obedience and . . . right few gentlemen, the which is a thing that causeth the people to be full unstable and is no wonder." The necessity of paying the soldiers regularly in order to prevent their pillaging the Normans was emphasized, and the impossibility of drawing on the duchy for war expenses, since under existing war conditions any such effort "were like to cause a general grouching and so a disobeissance which God forbid." [64]

The fall of Rouen, followed by the rapid conquest of Upper Normandy, created a new situation. So far as the English position was concerned these events were decisive. The chances of a reversal of fortune likely to revolutionize conditions in the duchy became exceedingly remote. Henry, in consequence, could develop and apply his policies in respect to the Normans with more speed and decision than formerly. While continuing to invite and encourage submission he could feel freer to act with vigor against intransigents, both because he was more completely master of the local situation than formerly, and also because it could reasonably be assumed that those Normans who remained obstinate in the face of both English conciliation and English victory were irreconcilable. The machinery for taking allegiances was expanded by issuing a much larger number of commissions for this purpose, not only to the commanders of expedi-

[61] *Cal. Norm. Rolls, op. cit.*, xli, pp. 716, 718. H. du Motey, "La ville, le chateau et les pays d'Exmes pendant l'occupation anglaise, de 1417 à 1449," *Bulletin de la société historique et archéologique de l'Orne*, viii, 126.

[62] *Cal. Norm. Rolls, op. cit.*, xli, 719. [63] 8 December, 1418: *ibid.*, p. 720.

[64] H. Nicholas, *Proceedings and Ordinances of the Privy Council of England* (London, 1834), p. 351.

tions and special royal lieutenants as heretofore, but also to castle captains and their lieutenants and to the royal *baillis*. Very possibly this was in response to a situation in which the demand for an opportunity to submit was greater than before, the waverers and hesitant being now convinced by events that the English controlled the future. But it is to be noted also that in not a few cases the royal commissioners were empowered not only to receive but also to exact homage from designated persons,[65] and early in the following year (i.e. 1420) we find reference to itinerant commissioners of the Earl of March, lieutenant and guardian of Normandy, going about receiving allegiances from rebels and taking over towns.[66] A certain element of leniency continued to be applied, probably with a view to thoroughness, by encouraging old offenders to submit. The Burgundian chroniclers in this connection remark general submission in Upper Normandy, commenting that no one could move about the country without a *laissez-passer* or *bullette*, for which the cost was four sous "a la cause desquels tres grans finances furent levees parmy le pays au proffit du roy et ses gouverneurs." [67] In the surrender of Harfleur, 25 February, 1419, appears the unique proviso that Normans who have violated their oaths will be pardoned and may choose between emigration or a second submission under bail for good behavior.[68] A special commissioner was provided to take the allegiances of the clergy in the Cotentin who were too poor or too infirm to come to the King.[69] Proclamations were made and repeated that all who wished to do so might safely come and swear fealty, no matter what their past

[65] *Cal. Norm. Rolls, op. cit.*, xli, 708, 722–723, 728–729, 732, 740, 747, 753, 758, 772, 776, 780, 788, 792, 795, 800, 804, 805, 808–809; xlii, 315–316, 318, 320, 328, 329, 332, 336, 350, 354, 355, 357, 364, 372, 390, 392, 399, 401, 406.

[66] Brit. Mus., Add. Ch. 285. This title for March appears in a letter of 15 February, 1419: B.N., MS. fr. 26042, no. 5325.

[67] Waurin, *Recueil des cronicques et anchiennes istories de la Grant Bretaigne*, ed. W. Hardy (London, 1864–91, Rolls Series), ii, 265. Monstrelet has the same account: "Le Livre des Trahisons de France envers la maison de Bourgogne" in *Chroniques relatives a l'histoire de la Belgique sous la domination des ducs de Bourgogne*, ed. H. Kervyn de Lettenhove (Brussels, 1873), p. 141. Specimen "bullettes" will be found in Luce, *Chronique du Mont-Saint-Michel* (Paris, 1880), i, 91–92.

[68] Bréquigny, no. 313.

[69] 23 May, 1419: *Cal. Norm. Rolls, op. cit.*, xli, 775. This may have been mere efficiency arising from a desire to clear up the situation promptly and to eliminate all excuses for delay or evasion.

offenses, even though they were brigands or deserters, being assured royal protection.[70] Special proclamation, 26 February, 1419, urged all who were absent from Normandy to return to obedience within a month;[71] arrangements were made with the Duke of Brittany permitting refugees to return freely with their goods;[72] and the English authorities showed themselves ready to restore to those who returned their property, in whole or in part.[73]

At the same time measures were taken against the obdurate. It was announced that all seigneurial lands and ecclesiastical temporalities held by those who had not come into Henry's obedience would be taken over to be administered like the royal domain and the income paid into the chamber of accounts.[74] Special agents in the King's name took over at once the Estouteville estates and the holdings of the Count of Tancarville,[75] and after waiting a month orders were sent to the *baillis* of Lower Normandy to ascertain the names of all persons in their districts who had not done homage, together with the value and extent of their lands.[76] It is during these first five months of 1419, particularly in April and May, that Henry was most active in granting fiefs to Englishmen at the expense of Norman rebels. About two hundred grants of about two hundred and fifty fiefs appear in the rolls, and mark the peak in the distribution of confiscated property.[77] In connection with this revolution in property-holding the new administration was prepared to release the property of loyal subjects from payment of charges due to

[70] These begin on 15 February, 1419: *ibid.*, xli, 751, 754, 798.

[71] B.N., MS. fr. 26042, no. 365.

[72] 19 March, 1419: Bréquigny, no. 1365.

[73] *Cal. Norm. Rolls, op. cit.*, xli, 767–768, 796; xlii, 448.

[74] 9 February, 1419: Bréquigny, no. 297.

[75] 30 January, 1419: *ibid.*, no. 276; *Cal. Norm. Rolls, op. cit.*, xli, 729.

[76] 12 March, 1419: *ibid.*, p. 759.

[77] Bréquigny and *Calendar, passim.* There were about fifty more grants during the next year and a half. For Henry's regulations regarding fief holding see B.N., Portefeuilles de Fontainieu 115–116, fol. 264. This is a reissue by Henry VI in 1430 of his father's *ordonnances*. The date of Henry V's action does not appear. It might have been taken in connection with certain orders of 28 May and 4 June, 1421: *Cal. Norm. Rolls, op. cit.*, xlii, 428–429. This same document with variant spellings and many abbreviations, suggesting that it was taken down at dictation, but in a fifteenth-century handwriting, is in Brit. Mus., Add. Ch. 21411.

rebels,[78] and to suspend all legal proceedings which antedated the English invasion.[79] The process of confiscation culminates in orders of 6 June, 1419, issued to all the Norman *baillis* directing them to seize all lands of whatever sort for which letters patent from King Henry cannot be produced. Such letters under the great seal could then be issued either to the loyal Norman holder or to some other faithful liegeman.[80] A final appeal for submission comes at the end of September, after the fall of Gisors had completed the conquest of Upper Normandy, with the proclamation of a general safe-conduct. All persons who wished to come into true obedience were given until November first to submit and to be seized of their property, and the English soldiers were directed to do them no injury. The country men, *gens de plat pais*, who had taken the oath and then turned rebel were assured of safety in returning to their allegiance, but any gentlemen who had violated their oaths were excluded.[81]

It is at this time that special efforts were made to restrain the clergy. "It has come to our attention," wrote the Earl of March, "that many priests, chaplains and churchmen hold to the party hostile to the King in giving counsel, aid and comfort to brigands and others of the King's enemies, from which many and great inconveniences for the duchy of Normandy ensue that will become still worse." In consequence the *bailli* of Caen (and presumably the other *baillis* of Lower Normandy) was ordered to have cried abroad that all clergy who had not taken the oath of allegiance should appear before the *bailli* or his lieutenant within a fortnight to take the oath and to promise not to give aid and comfort to the King's enemies on pain of being reputed rebels and of being captured and punished accordingly.[82] This was followed up by orders to the ecclesiastical authorities in the Norman dioceses to prosecute in the ecclesiastical courts non-

[78] *Cal. Norm. Rolls, op. cit.*, xli, 765; xlii, 356, 380.

[79] *Ibid.*, xli, 759.

[80] Bréquigny, no. 599. For similar action by the French see *B.E.C.*, xxxvi, 312, and Arch. Nat. JJ171, no. 37.

[81] 29 September, 1419: Bréquigny, no. 670. Special orders to the *bailli* of Gisors not to hinder such as wish to do homage from swearing fealty were issued on 4 October: *Cal. Norm. Rolls, op. cit.*, xlii, 326.

[82] 15 February, 1419: B.N., MS. fr. 26042, nos. 5325, 5365. Proclamation was made at Falaise on 2 March.

resident clergy.[83] Eventually extension until the end of November was permitted to absentees, apparently to accommodate the Norman students at the University of Paris.[84] Already Henry had assumed the administration of the archiepiscopal temporalities by reason of the disobedience of the Archbishop of Rouen and of his failure to do homage and swear fealty,[85] and in February 1420 the Treasurer-General ordered the occupation and collection of the spiritualities and temporalities of the sees of absent prelates as though they were vacant.[86] At earlier dates the cathedral chapters had been ordered not to fill vacant benefices without royal license,[87] but, while this would help to assure a loyal clergy, presumably this was primarily intended to safeguard the royal rights of presentation, rights which could easily be used to reward the submissive. Absentee canons, however, were deprived of the fruits of their benefices "for having joined the Dauphin in territory notoriously unsubmissive to the King." If they returned and could show that they were not Armagnacs they were reinstated.[88]

The detailed account of Henry's appropriation or organization of a civilian local and central administration in the course of his conquest need not detain us. Suffice that such was his policy from the start,[89] and that following the fall of Rouen he undertook to apply himself to the local problems of the duchy in the interests of good government. At the end of February and the beginning of March he summoned the Norman nobility to appear in person before him at Rouen, "ayons intention et

[83] 24 April, 1419: *Cal. Norm. Rolls, op. cit.*, xlii, 319.

[84] 26 September, and 27 October, 1419: *ibid.*, pp. 326, 329.

[85] Bréquigny, no. 1256. Yet in 1421 we find a royal declaration of intention to exercise regalian rights against the archbishop: *Cal. Norm. Rolls, op. cit.*, xlii, 414.

[86] B.N., MS. fr. 26043, nos. 5476, 5478.

[87] 13 January and 10 February, 1419: *Cal. Norm. Rolls, op. cit.*, xli, 747. 7 March, 1419, vacant prebends are declared to be "in manibus nostris jure regalie": Bréquigny, no. 1455. The rolls are full of presentations.

[88] L. Fallue, *Histoire politique et religieuse de l'église métropolitane et du diocèse de Rouen* (Rouen, 1850–51), ii, 349–350. It may be of interest to note that in the south in 1416, the French authorities had had similarly to resort to measures of expulsion against pro-English clergy: *Histoire générale de Languedoc* (Toulouse, 1872–93), ix, 1035.

[89] Newhall, *op. cit.*, pp. 159 ff. For an excellent description of Henry's system in its completed form see W. T. Waugh, "The Administration of Normandy, 1420–1422" in *Essays in Medieval History presented to Thomas Frederick Tout*, ed. Little and Powicke (Manchester, 1925), pp. 349–360.

volente de impartir a iceulx nos loyaulx subgez et avecques eulx communiquer, traicter et signifier personnelement certaines matieres concernans le bien, honneur et volite de nous et de chacun d'iceulx." At this time he wore his robes as Duke of Normandy, and issued an *ordonnance* appointing as a standard of liquid measures those in use at Arques and fixing the ell according to the Paris ell.[90] Later in the year the English King was willing to reverse his earlier benevolent policy in regard to taxation, and undertook to collect from the duchy revenue for carrying on the war by appropriating the French war taxes of the gabelle, the *quartages* on beverages, and the *imposition foraine*. Whatever his previous arrangements about the gabelle may have been, it is obvious that the price fixed at this time, 30 livres the measure, is that which the French government had established in December, 1415, to run until 1 January, 1417.[91] He even undertook to reform the money, and initiated in May, 1419, a series of monetary *ordonnances* presumably with a view to restoring a sound currency,[92] but apparently without satisfactory results. The systematic debasement and counterfeiting practised by the Dauphin as a war measure, the difficulty in collecting silver in return for the new coinage, and the tendencies to hoard, export, and speculate in bullion which develop in a highly uncertain money market,[93] all combined to defeat a currency reform, which may not itself always have been based upon sound and far-sighted principles.[94] Certainly currency changes were

[90] Chastelain, "Fragment relatif à la Normandie" in Williams' edition of the chaplain's *Gesta Henrici Quinti*, p. 192. The precise dates given in this account are not trustworthy but the order of events seems to be correct: Bréquigny, no. 300.

[91] 7 May, 1419: Bréquigny, no. 536, cf. *ante* notes 12 and 55. Presumably it remained at this price until after the victory of Verneuil when Bedford, in order to meet the expenses of new campaigns of conquest, increased the price by six livres, thus bringing it again to the oppressive price which Henry had generously abolished in the early years of the conquest: 9 November, 1424, B.N., MS. fr. 26047, nos. 342–344.

[92] *Ordonnance* of 8 May, 1419, Bréquigny, no. 543. For subsequent ones in December, 1419, April, June, and August, 1420, January, April, May and November, 1421, see *ibid.*, nos. 708, 829, 839, 850, 937, 938, 1373, 1492, 963, 991, 1058. This is a highly technical subject, which calls for careful study by numismatic experts. See Bailhache's study in *Revue Numismatique* for 1924 with references there given, reprinted in translation in Spink's *Numismatic Circular* for January–February, 1926.

[93] Bréquigny, nos. 963, 1058.

[94] Bailhache declares some of the regulations can be explained only on the basis of administrative profit.

blamed locally for making hard times,[95] a fact which would not be conducive to the popularity of the new government, nor a help towards local order.

It was in regard to the latter that difficulties continued. As previously, so during 1419 orders and commissions to various officials, captains, *baillis*, vassals, empowering them to punish brigands, suppress robberies, and eliminate oppressions,[96] with, on one occasion, orders to summon the knights and squires to deal with a particularly bad state of affairs,[97] continued to indicate that disorders existed and that the English authorities were increasingly active to suppress them. It is, however, late in 1419 that we begin to find records of executions,[98] which may indicate either a more rigorous policy on the part of the government, or merely an effort of the local officials to give evidence by written record of the efficiency with which they performed the King's business. Of results we can say little, except that in June, 1420, the captain of Harfleur could report "ther ys no steryng of none evyl doers, saf byonde the rivere of Sayne, toward the basse of Normandy of certains brigaunts"; and the *bailli* of the Cotentin could write in that "brigauntez were never so fewe in thos partyez." [99]

The prevalence, however, of war conditions and hard times,[100] the presence of English garrisons throughout the country without much military activity to occupy them, the probably increasing numbers of deserters who found a livelihood in brigandage, the exposure of Normandy to raids from hostile

[95] Fenin, *op. cit.*, p. 189; G. Chastelain, *Chronique, 1419–1470*, ed. H. Kervyn von Lettenhove (Brussels, 1863–66), i, 239; Cochon, *op. cit.*, pp. 382, 388–389.

[96] March–September, 1419: *Cal. Norm. Rolls*, *op. cit.*, xlii, 316, 329; xli, 790; see also xlii, 354, 357.

[97] 4 May, 1419: *ibid.*, xlii, 317.

[98] Between November, 1419, and May, 1420, the *vicomte* of Avranches credits Suffolk's lieutenant with twenty-one brigands, fifteen of whom were hanged, five beheaded, and one "condampne a faire en la dicte viconte l'office de la haute justice": Luce, *op. cit.*, i, 100–102. See also B.N., MS. fr. 26043, nos. 5398, 5431, 5441, 5499, 5500; MS. fr. 26044, no. 5609. These records may be connected with the policy of rewarding the captors of brigands, but the first reference to such reward is for September, 1421. Cf. *post*, notes 113, 114.

[99] H. Ellis, *Original Letters Illustrative of English History*, 2nd series (London, 1846), i, 74, 85.

[100] *Journal d'un bourgeois de Paris, 1405–1449*, ed. A. Tuetey (Paris, 1881), p. 162; cf. *ante*, note 95.

territory, the damage to English prestige resulting from the disaster at Baugé, all these combined to increase the difficulties in regard to local order.[101] The considerable number of royal pardons give glimpses of the local conditions, and would seem also to indicate a genuine desire of the English authorities to be lenient when circumstances warranted. For those who had been forced into crime by hard times, joining the brigands offered an escape. Loyal Normans captured and held for ransom might be released from payment on joining their French captors, or by agreeing to carry messages, or by furnishing brigands with supplies, or by rowing them across the Seine, all acts in violation of the royal *ordonnances*; and once forced to break the law and so become liable to arrest, through fear such men would themselves join the outlaws. Refugees from Normandy who joined the French garrisons found the transition from the life of a frontier man-at-arms to one of brigandage very easy, and attempts to return to peaceful life at home might well be regarded as mere subterfuges by the English or encounter hostility from neighbors who had suffered at the hands of the French soldiery. There is for instance the account of one brigand who decided to reform but who was promptly seized and hanged. His companion, who was not a brigand, sought asylum in a church, from which he was allowed to go free only on condition of pledging himself to effect the reform of his cousin then imprisoned for brigandage. The latter, however, on being released resumed his former life, whereupon his surety himself fled to the woods.[102] The very presence of French raiders and guerillas made for conditions encouraging individuals to flight, and the English authorities had to keep issuing pardons to men who had, in one way or another, been forced through circumstances into association with the enemy.[103] Local depredations also increased the hard times, thus helping to create a vicious circle.[104]

[101] For efforts to control the English soldiers in garrison see Newhall, *op. cit.*, pp. 230 ff.

[102] Le Cacheux, *op. cit.*, i, 22–36, 53–57, 116–121; Bréquigny, nos. 962, 1493.

[103] *Cal. Norm. Rolls*, *op. cit.*, xlii, 402, 405, 413, 417, 418–420, 424, 441, 442, 444.

[104] In the Compte du Guillaume Daoust for the baronie d'Argences we read that Jehan le Bastart owes the abbey money "dont ne este receu chose pource que ledit

The position of the English soldiers would be a difficult one. They were in a none too friendly country, and it would be often hard to distinguish the King's loyal subjects from his enemies. Even the possession of *bullettes* was no guarantee that the holders were friends.[105] When they went out to get provisions they had to take precautions.[106] Messengers, even though they be heralds, were likely to be set on and slain,[107] and small groups were in danger of assault.[108] Local fairs had to be protected against possible brigand attack,[109] and officials not only had to maintain armed escorts but sometimes had to withdraw for safety from the *plat paiz* into the cities.[110] The unfortunate Normans who were suspected of aiding and comforting brigands fell, very naturally, under soldierly suspicion and might be subjected to terrorizing threats or punitive confiscations, while those who sought to return from exile or from a life of brigandage, or who were escaping from French captors were often regarded by the English men-at-arms as enemies in disguise.[111] The fact that these same men-at-arms were not above robbery themselves and were constantly alert to seize and hold for ransom those who could be made to pay,[112] still further increased the complexities of the situation.

Presumably as a means of satisfying the legitimate cupidity of the soldiers the government offered to pay 6 l. t. to the captors of every brigand turned over to the authorities for punishment.[113] This would enable the government to put these out-

bastart est absent du pais et fugitif, et est la terre en ruyne et non volor," and again Thomas Rapine also owes money to the abbey, "dont na este paie aucune chose pource qu'ilz sont deuz on pais des brigans es bois de la Vasoque, et ny a leu ose aler pour lesdits brigans qui y sont tousiours." This is for 1424–1425: Arch. du Calvados, H 4430, Abbaye de Fécamp.

[105] See reference to Jean Avicet "brigant et gaitteur de chemins . . . par plusieurs fois abulleté," Oscar de Poli, *Les défenseurs du Mont-Saint-Michel* (Paris, 1895), p. xcviii, no. 18. See also Le Cacheux, *op. cit.*, i, 93.

[106] Even near Touque castle: Arch. Nat., JJ172, no. 591.

[107] Rymer, iv, 4, p. 33. [108] Le Cacheux, *op. cit.*, i, 101–102.

[109] B.N., MS. fr. 26044, no. 5697.

[110] Bréquigny, no. 1315; B.N., MS. fr. 26046, no. 170; Arch. du Calvados, *fonds* Saint-Étienne de Caen, H 1839, no. 311; Arch. de la Seine Inf., Extraits et notes historiques iv, 4591–92, 5467 citing Compte de Jehan Cuillier.

[111] Bréquigny, no. 1284; Le Cacheux, *op. cit.*, i, 9–10, 72, 99.

[112] *Cal. Norm. Rolls*, *op. cit.*, xlii, 395; Le Cacheux, *op. cit.*, i, 38, 141.

[113] The earliest mention is an order on the *vicomte* of Rouen dated 26 September, 1421,

laws to death instead of having them pay their ransoms and return to the woods, and it would also make possible the release or pardon of loyal Normans wrongfully captured. Presumably it is this practice which explains the numerous records for the years 1421 and after of brigands received and executed.[114] It was hard, however, to prevent captains and soldiers from holding their prisoners if they could get ransoms higher than the government price.[115]

Thoroughness in applying the laws of confiscation continued to be the practice. In June, 1421, the King, having learned that many nobles and others who were formerly his liegemen have joined the enemy or betaken themselves to the caves and woods in order as brigands to prey on the loyal, orders the *baillis* to make inquest concerning the names of such persons, to send the names to the royal chancery, and to seize their goods within fifteen days.[116] Two months later the *vicomtes* were ordered to proclaim that the goods of all rebels would be seized and sold.[117] Further inquiries as to the possessions of absentees were made by the *vicomtes* in the following year, [118] and in 1423 we find mention of a special commissioner *ad recipiendum confiscationes et forefacturas*.[119] Renewed orders went out to proceed in the courts against non-resident holders of benefices, which would presumably be a form of pressure on rebellious Norman clerks, [120] inasmuch as prelates were directed in the following year to furnish lists of all holders of benefices and to arrange for the incumbents to take the oath of fealty.[121] And finally the *baillis* were directed to expel from Normandy within

directing him to pay for four rebels recently captured near Bec-Thomas and beheaded at Rouen: Brit. Mus., Add. Ch. 301. See also *ibid.*, 11503; B.N., MS. fr. 26046, nos. 92–93; MS. fr. nouv. acq. 3624, no. 286; Arch du Calvados, F. *fonds* Danquin, Série Orbec; Arch. de la Seine Inf., Occupation Anglaise, II, États. Since the livre tournois was worth three shillings sterling and a man-at-arms was paid a shilling a day, this reward was equivalent to eighteen days' pay. See Newhall, *op. cit.*, pp. 167, 194 notes.

[114] Arch. de la Seine Inf., Occupation Anglaise, I, pièces mélées; B.N., MS. fr. 26044, nos. 5701, 5713, 5715; 26046, nos. 4 and 79; 26047, nos. 217, 218, 245, 250, 255, 263, 264, 282; Brit. Mus., Add. Ch. 11488.

[115] B.N., MS. fr. 26047, no. 338.

[116] Bréquigny, no. 1001.

[117] *Cal. Norm. Rolls, op. cit.*, xlii, 431.

[118] *Ibid.*, p. 437.

[119] Bibl. de Rouen, Collection Leber 5870, t. iii, "Jornalia thesauri," fol. 227v.; for record of the sale of the movables of two rebels see B.N., MS. fr. 26044, no. 5686.

[120] *Cal. Norm. Rolls, op. cit.*, xlii, 410, 429.

[121] *Ibid.*, pp. 449, 452.

a week all women whose husbands were *in patria inobedienti*,[122] but before the end of the week a new proclamation gave all who had not yet sworn fealty until the following February to give in their adherence.[123] Continuously the English ruler maintained the position that all who wished to be loyal and obedient subjects should have every opportunity to submit, and his successor opened the new reign in 1422 with a renewed public assurance that all refugees from Normandy might safely return, excepting only those who had participated in the murder of the Duke of Burgundy, or the abduction of the Duke of Brittany, or who had been guilty of sacrilege or of the betrayal of towns and fortresses.[124]

Greater effort and greater severity does appear in connection with local defense, because in a war of raids and surprises in a partly hostile country the sudden capture of local strongholds like Bec was not particularly difficult, even though the neighboring garrisons could effect a prompt recapture. Stricter watch was enjoined on the castle captains,[125] and they were later ordered to furnish the central authorities with the names of all the villages around their castles and the number of the inhabitants therein who have to help watch at night.[126] More rigorous terms were imposed on garrisons of recaptured places, all right of ransom being suspended and the names of all captives being sent into Rouen, presumably to find which ones could be punished for treason.[127] Eventually was issued a general prohibition against ransoming Normans captured in war on pain of confiscation of goods. Such captives were to be held in prison.[128] Particularly vigorous efforts against the brigands

[122] 2 December, 1421: Bréquigny, no. 1314.

[123] 8 December, 1421: *Cal. Norm. Rolls*, *op. cit.*, xlii, 435.

[124] 28 October, 1422: Le Cacheux, *op. cit.*, i, 20; B.N., MS. fr. 26046, no. 1.

[125] 25 April, 1421: P.R.O., Norman Rolls, 9 Henry V, m. 33d. (*Cal. Norm. Rolls*, *op. cit.*, xlii, 428).

[126] 19 January, 1422: *ibid.*, m. 10d. (*Cal. Norm. Rolls*, *op. cit.*, xlii, 437); Léchaudé d'Anisy, *Extraits des chartes, et autres actes normands ou anglo-normands, qui se trouvent dans les Archives du Calvados* (Caen, 1834), ii, 21.

[127] 16 June, 1421: Bréquigny, no. 1000.

[128] 8 December, 1421: *ibid.*, no. 1061. The ineffectiveness of this is implied in the orders of 8 October, 1422, forbidding the granting of safe-conducts to those seeking their ransoms: B.N., MS. fr. 26044, no. 5771.

in Auge, Orbec and Pontaudemer in the summer of 1422 are indicated by the organization of a special force of forty horsemen, both archers and men-at-arms, and seventy foot-archers to hold the field for two months to resist and apprehend brigands. It is indicative of the government's difficulties that at the same time the *vicomtes* had to be directed to watch the captains of this force to see to it that they maintained discipline and prevented their men from committing "oppressions, pilleries ne autres charges a noz diz subgez." [129]

It is always hard to estimate results in a situation such as is here discussed. That the majority of the Norman gentry and people submitted, and that the Norman personnel for the local administration continued to hold office under the conqueror has long been admitted. In that respect Henry's conciliatory policy was a success. But that the English succeeded in pacifying as well as conquering the duchy is obviously not so, and their difficulties seemed to increase as the war continued. Indeed, it may be assumed that only a successful conclusion of the war would make real pacification possible. As long as the war itself dragged on the local situation would remain uncertain and disturbed, although conditions might be improved in Normandy by extending the English conquests so that the frontiers against the Armagnacs would be so far from the duchy that actual war conditions would not prevail there. This was what Bedford proceeded to do after his victory at Verneuil.

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[129] 15 July, 1422: B.N., Portefeuilles de Fontainieu 111–112, fol. 260 (also Arch. Nat., K 62, no. 1, and Brit. Mus., Add. 21156, no. 11). The pay of this force is hard to explain. The horsemen were to receive four écus a month and the footmen three. Since the écu was worth twenty-five shillings tournois and the livre tournois was worth three shillings sterling, this pay is lower than the normal army pay. This is fifteen shillings sterling for horsemen where the normal pay for men-at-arms was thirty, and fifteen for archers. Either this pay was an addition to the regular pay, or else the capturing of brigands at six livres tournois each was expected to make up the difference.

THE NORMAN COMMUNES UNDER RICHARD AND JOHN, 1189–1204[1]

I

THE Norman communes do not bulk large in the extant records of the duchy either before or directly after the conquest by Philip Augustus in 1204 but they are not without interest as a factor in its administrative life in this transitional period and they throw some light upon contemporary communal institutions, both in England and on the continent. More specifically, the Norman communes of this period afford additional and striking evidence of the financial weakness of the Anglo-Norman dukes so clearly displayed in other connections.[2] They explain in considerable measure the relative ease of the French conquest and its permanence. They cast grave doubts, both by their character and by their activities, upon established views concerning the communes in Europe in the early thirteenth century in general, notably upon those views concerned with the perplexing problem of origins. Certainly the communal element does not deserve the almost complete neglect which it has experienced at the hands of the great masters of Norman history.[3] Descriptions must still remain incomplete for lack

[1] The present paper contains the first two of five sections of a chapter devoted to the Norman Communes which will be included in a projected volume to be entitled *Norman Institutions in Transition, 1189–1226*. The remaining sections will deal with the following topics: The Communal Institutions of Rouen; The Norman Commune and the Norman Church; Philip Augustus and the Norman Communes.

[2] *Magni Rotuli Scaccarii Normanniae sub RegibusAngliae*, ed. T. Stapleton (London, 1840), *passim*. The classical account of Norman finance prior to the French conquest is to be found in L. Delisle, "Des revenus publics en Normandie au douzième siècle," *B.E.C.*, x, 173–210, 257–289; xi, 400–451; xiii, 97–135; cf. F. M. Powicke, *The Loss of Normandy* (Manchester, 1913), pp. 343 ff.

[3] Léopold Delisle devoted a few pages of his essay on Norman finance to the Norman communes, *B.E.C.*, x, 283–284; xi, 403–405, discussed the communes incidentally in his *Études sur la condition de la classe agricole et l'état de l'agriculture en Normandie au moyen-âge* (Évreux, 1851; reprinted, Paris, 1903), pp. 135 ff., 168 ff., and gave over a few pages of his preface to a list of the Norman communes, with references to Chancery, Exchequer, and other records, in his *Cartulaire normand de Philippe-Auguste, Louis VIII, Saint Louis et Philippe-Le-Hardi* (*M.A.N.*, vol. xvi, and separately, Caen, 1852), pp. xv–xviii. Professor Charles H. Haskins, both in his *Norman Institutions* (Cambridge,

of facts in the documents or because the documents themselves are missing, and conclusions must still be tentative pending more extensive study of communal institutions in the mediaeval period as a whole,[4] yet there seems no good reason why a preliminary account of the Norman communes from the accession of Richard to the death of Philip Augustus should be longer delayed. It is hardly possible, indeed, to attack the legal and financial problems of the duchy during the first two decades of the French conquest until the confusion surrounding the communes shall have been at least partially reduced to order.

The problem of origins is encountered at the very outset. The last of the English rulers of the duchy seems to have been responsible for at least four of the Norman communes,[5] quite possibly for nine.[6] Since the total number of important Norman communes in this period does not much exceed twice the latter figure,[7] the necessity for an accurate evaluation of John's

1918) and in the various articles which preceded that volume, finds very little to say concerning Norman municipal institutions; Professor F. M. Powicke (*op. cit.*) pays some attention to the Norman commune in connection with military affairs but scarcely deals with the communal problem itself at all. A good deal may be learned about the Norman communes in A. Luchaire, *Les communes françaises à l'époque des Capétiens directs* (Paris, 1890; *nouvelle édition . . . par Louis Halphen*, Paris, 1911) and in Paul Viollet, *Les communes françaises au moyen âge* (Paris, 1900), although the Norman references in both volumes are scattered and have been chosen primarily for illustrative purposes. Only one Norman commune, Rouen, has received anything like adequate attention from scholars: A. Giry, *Les établissements de Rouen* (Paris, 1883), A. Chéruel, *Histoire de Rouen pendant l'époque communale, 1150–1382* (Rouen, 1843), and de Fréville, *Mémoire sur le commerce maritime de Rouen* (Rouen, 1857), all somewhat out of date but all still useful. S. Deck, *La ville d'Eu, 1151–1415* (Paris, 1924) is a recent and an excellent monograph and it is to be hoped that studies of the other Norman communes will be forthcoming.

[4] The studies of Professor Carl Stephenson are breaking new paths in this connection and his completed volume is awaited with much anticipation; meanwhile see his "Les 'aides' des villes françaises aux xii^e^ et xiii^e^ siècles," *Le moyen âge*, xxiv, 3–57; "La taille dans les villes d'Allemagne," *ibid.*, xxvi, 3–45; "The Origin and Nature of the 'Taille,'" *Revue belge de philologie et d'histoire*, v, 801–870; "The Seignorial Tallage in England," *Mélanges d'histoire offerts à Henri Pirenne*, (Brussels, 1926), pp. 465–474.

[5] Alençon, Fécamp, Harfleur, Montivilliers; *Cartulaire normand*, pp. xv–xviii.

[6] John confirmed the charters of Aufai, Caen, Dieppe, Domfront, and Falaise just before the French conquest, *ibid.*, pp. xv–xviii; we do not know exactly when or by whom these communes were created or if their existence from an earlier period had been continuous.

[7] If all the Norman communities which possessed some of the earmarks of a commune are counted there would certainly be more than fifty; probably not more than twenty of these communities were communes by any strict definition of the word or were possessed of sufficient stability to have been of any considerable importance in the history of the

motives is apparent. The usual explanation for this comparatively wholesale recognition of the communal principle by the most reckless of the sons of Henry II [8] has been the growing weakness of the Norman state in face of steadily increasing French aggression. The connection between communal charters and dwindling military strength, indeed, seems obvious enough, especially after 1200.[9] It is possible, however, that John's interest in the communal movement was not aroused solely or even considerably by military factors; the present paper will attempt to demonstrate that he was governed by another interest, equally cogent in the last years of the duchy and perhaps more fundamental.

The military theory concerning the grant of communal privileges is an alluring one and constitutes by far the simplest formula by which John's action may be explained. John's resources both in money and in men were inadequate; the danger from the advancing French troops was great and imminent. He was obliged to meet purely military exigencies in whatever way was least expensive for himself. He therefore applied, rather frantically, a device which his predecessors had used much more sparingly. Communities which had previously lacked such privileges or possessed them in a partial or irregular form were given the right to account at the Exchequer for their financial obligations to the duke through their own officials and were allowed to hold courts of their own for at least the ordinary routine judicial business of the township. In return the communes thus created would oppose the ducal enemies with armed force, perhaps even joining the feudal host on the battlefield itself.[10] At the least the members of the communes would per-

duchy. A definitive list of the Norman communes in this period is under construction but cannot be included in the present paper.

[8] John also granted numerous and important charters in England in this period: A. Ballard, "English Boroughs in the Reign of John," *E.H.R.*, xiv, 93–104, and A. Ballard, *British Borough Charters (1042–1216)*, (Cambridge, 1913); see also *Rotuli Chartarum*, ed. T. D. Hardy (London, 1837), i, part 1 (*1199–1216*), *passim*, and *Rotuli Litterarum Patentium*, ed. T. D. Hardy (London, 1835), i, part 1 (*1201–1216*), *passim*; cf. H. A. Merewether and A. J. Stephens, *History of the Boroughs and Municipal Corporations of the United Kingdom* (London, 1835), i, pp. iv, 378.

[9] *Cartulaire normand, passim;* Powicke, pp. 312–315.

[10] The grant of communes by John *ad terram nostram defendendam* may be found in *Rot. Litt. Pat.*, pp. 13b (Fécamp), 14b (Montivilliers and Harfleur), 31a (Caen, the clause

form the duties of castle-guard,[11] thus releasing other and more valuable troops for active service in the field. This military contribution, whatever its nature, was the most important *quid pro quo* which the commune could offer and the only one which the duke really desired. So runs the theory.[12]

Nor is evidence lacking for the support of this view. The earlier history of Rouen is decidedly susceptible of such an interpretation; services, usually military in nature, repeatedly brought to it renewed and additional privileges.[13] The relevant entries upon the Chancery rolls of John, in many instances, will strengthen the claim that military considerations predominated in his mind in all his contacts with the Norman communes.[14] His writs to the men of Eu, granting a commune, exhorting them to defend him against his enemies, and thanking them for their active response, seem particularly conclusive.[15] The

is not used but may be implied), and 48a (Angoulême); cf. Powicke, p. 221 and note. In the case of Dieppe the ducal officials were instructed to protect the town; *Rot. Litt. Pat.*, p. 26a. A. Giry, article *Commune* in *La grande encyclopédie*, xii, 120–124, thinks that the communes established on the English lands in France were for defense chiefly and that the same thing was true of the French communes under Philip Augustus.

[11] A comparison of a list of the Norman communes of this period with a list of the Norman castles is instructive; for the latter, see *Cartulaire normand*, no. 215 (c. 1210). Giry, *Établissements*, i, 432–433, points out the close connection of castle and commune and the same thing may be noted in *Rot. Litt. Pat.*, pp. 17a (Angers), 24b (Falaise), and 28b (Coutances and Carentan); cf. *Rotuli Litterarum Clausarum*, ed. T. Hardy (London, 1833), i (*1204–1224*), p. 6b, where the intimate connection of town and castle in another part of John's realm (Dublin) is displayed.

[12] A clear statement of the military theory may be found in Giry, *Établissements*, i, 47; Luchaire, *Les communes françaises*, pp. 228–229, 279–280 (cf. pp. 186–187, where some doubt is expressed as to the military value of the communes); A. Luchaire, *Histoire des institutions monarchiques de la France sous les premiers Capétiens, 987–1180* (Paris, 1891), ii, 166–167; A. Luchaire, *Manuel des institutions françaises, période des Capétiens directs* (Paris, 1892), pp. 245, 420 (very guardedly); Powicke, pp. 312–313, 326–327 and notes; and in H. Pauffin, *Essai sur l'organisation et la juridiction municipales au moyen âge* (Paris, 1886), pp. 60–61. Professor Powicke, *E.H.R.*, xxi, 641, has stated his belief that John received more aid from the Norman communes against the French than from any other single source. E. Semichon, *La paix et la trêve de dieu* (Paris, 1857), pp. 210, 256, thinks that the communes were derived from the diocesan organization involved in the administration of the Peace and the Truce of God.

[13] Giry, *Établissements*, i, 24–30; Chéruel, *Histoire de Rouen*, i, 13 ff.; de Fréville, *Commerce maritime*, i, 107 ff.

[14] *Rot. Litt. Pat.*, pp. 2a (Eu), 8b (Eu), 13b (Fécamp), 14a (Harfleur and Montivilliers), 26a (Dieppe); *Rot. Chart.*, pp. 17b (Alençon), 65b (Andeli); cf. *Cartulaire normand*, p. xviii.

[15] *Rot. Litt. Pat.*, pp. 2a, 8b, for the writs mentioned; cf. *ibid.*, p. 13a (mention of chattels of Gilbert Fitz-Ada, our burgess *qui relicta hereditate sua pro nobis exivit de Augo*); cf. Deck, *Eu*, p. 79.

action of the Norman seneschal, in the absence of the captive Richard, by which the men of Évreux were granted communal privileges in order that they might the more effectively defend the town against the French, may also be cited with some force.[16] The close connection of the Norman commune and its neighboring castle, moreover, is a striking fact and argues a mutual interdependence which squares well with the military theory.[17]

On the other hand, there are plenty of facts which do not fit this hypothesis. We are not even sure that John's creations were real. In some cases, e.g., Eu, we know that the communal status had existed previously and that he merely confirmed it.[18] In other cases we suspect this to have been true, for a feudal society could not produce communities over night suitable for such grants, certainly not without loud protests from vested interests of various kinds. Such groups must in the very nature of things have evolved slowly. They could not have been constructed deliberately at any time, for military or for other reasons. John could hardly have altered more than a legal status; he could have created little.[19] The military theory

[16] *H.F.*, xxiv, *Preuves de la préface*, nos. 21, 22; *M.A.N.*, xv, 161; Giry, *Établissements*, i, 47, note 1, cites this case in support of the military theory.

[17] *Rot. Litt. Pat.*, p. 24b (Falaise); cf. *Cartulaire normand*, no. 110; also *H.F.*, xxiv, *Querimoniae Normannorum*, nos. 411, 419, 420, 457. The close relationship between commune and castle is noted in Luchaire, *Les communes françaises*, pp. 280–281; Deck, *Eu*, p. 73; E. Audoin, *Essai sur l'armée royale au temps de Philippe Auguste* (Paris, 1913), pp. 116–117; A. Luchaire, "Les milices communales et la royauté capétienne," *Séances et travaux de l'académie des sciences morales et politiques*, xvi, 163–165.

[18] *Le livre rouge d'Eu*, ed. A. Legris (Paris, 1911), p. x, asserts that Eu was one of the first of the Norman communes to possess privileges but that we do not know whether it obtained these privileges through fighting or by gift. For other references to the long history of Eu as a commune, see Stapleton, ii, p. ccxxii; *M.A.N.*, xvi, 99b; B.N., MS. lat. n. a. 1244, fol. 201; J. H. Round, *Calendar of Documents Preserved in France Illustrative of the History of Great Britain and Ireland (918–1206)* (London, 1899), no. 1418.

[19] It is to be remembered (I am indebted to Professor Charles H. McIlwain for the caution) that most communal charters do not create the rights which they confirm and that a charter is good evidence for the existence of a commune in a given year but rather poor proof of its creation at any particular time. The word commune itself, of course, may mean little or much, or, in the words of W. S. McKechnie (*Magna Carta. A Commentary on the Great Charter of King John* (Glasgow, 1905), pp. 137–138) it may mean anything. Certainly a community with some sort of organization must have existed prior to the grant or confirmation of communal privileges. The commune had to be a real person before it could be made a fictitious one by charter as Maitland so often pointed out; F. W. Maitland, *Township and Borough* (Cambridge, 1898), pp. 12 ff.; *The*

surely loses vitality when it is discovered that the creations it is supposed to have produced were merely confirmations of a long process of gradual growth. The theory may still hold, to be sure, but the proof for it must be sought in the earlier period as well and for that period we have practically no evidence at all.[20]

Again, the commune of the early thirteenth century was a most uncertain military factor under any circumstances. The members of the commune were few in number, primarily interested in commerce and trade, without especial military training or equipment, and committed by their charters to only occasional services under many restrictions as to time, place, and objective.[21] A rabble of townfolk under the uncertain guidance of communal officers rather than an armed force, the commune would undoubtedly resist actual invasion of communal territory. It could hardly be expected to do more; no community, whatever its organization, would be likely to do less.[22] As a matter of fact the mere existence of the communal organization made it somewhat easier for the town to bargain with the enemy when the only alternative would have been armed resistance. Unorganized communities certainly could

Collected Papers of Frederic William Maitland, ed. H. A. L. Fisher (Cambridge, 1911), iii, 210 ff.; F. Pollock, and F. W. Maitland, *The History of the English Law Before the Time of Edward I* (Cambridge, 1895), i, 625 ff. For varying definitions of a commune, see Viollet, *Les communes françaises*, p. 23; P. Viollet, *Histoire des institutions politiques et administratives de la France* (Paris, 1890–1903), iii, 21; Luchaire, *Manuel*, pp. 406 ff.; Ch. Bémont, "Les institutions municipales de Bordeaux au moyen âge," *Revue historique*, cxxiii, 7–8; R. Holtzmann, *Französische Verfassungsgeschichte* (Berlin, 1910), p. 170; and the various writings of Professor Pirenne, especially his "L'origine des constitutions urbaines au moyen âge," *Revue historique*, liii, 53 ff.

[20] Cf. Haskins, *Norman Institutions*, pp. 48–49, for the period of the Conqueror.

[21] Stapleton, ii, 445 (1198), "compotum de x lib. pro i summario cum apparatu quem burgenses Fiscanni debuerunt regi quando exercitus Normannie submissus est"; *Rot. Chart.*, p. 65b, "Concessimus et eisdem hominibus nostris de Andeli quod non eant aliqua de causa in aliquam expeditionem sive chevalcheam quod non possint redire ad hospitia sua eadem die qua decesserunt, sicut carta Regis Ricardi fratris nostri quam habent rationabiliter testatur"; E. Boutaric, *Institutions militaires de la France avant les armées permanentes* (Paris, 1863), pp. 158, 204–205; *Ordonnances des rois de France*, ed. de Vilevant and de Bréquigny, xi (Paris, 1769), p. xxii; L. L. Borelli de Serres, *Recherches sur divers services publics du xiii^e^ au xviii^e^ siècle* (Paris, 1895–1909), i, 508.

[22] Eu seems to have needed ducal aid like any non-privileged community; Stapleton, ii, 419, "Communia de Augo M lib. quas Rex accommodavit eis ad firmandam Villam suam"; *ibid.*, ii, 447, "M lib. C lib. xlviii lib. xix sol. de Tallagio facto ad fossata de Augo."

not have formulated or carried out the carefully calculated policy of the Norman communes in 1204.[23] In any case, the communes of Normandy were seldom if ever used upon the actual battlefield or for castle-guard upon any considerable scale. Even at Bouvines, a decade later, communal troops were a negligible factor.[24] The Norman communes were certainly of no military value to either John or Philip Augustus. The communal militia of Rouen, the largest city in the duchy, has left practically no trace at all in the records of the thirteenth century.[25]

There is no evidence that John even attempted to use the communes against the French in a military way. He possessed, as is well known, an elaborately constructed and well-maintained system of defense in Normandy, including both powerful fortresses skilfully arranged in concentric circles and large quantities of feudal and mercenary troops of every description.[26] This equipment he made no serious effort to utilize. The garrisons of his fortresses, in the critical months of 1203 and 1204, fought by themselves or made terms with

[23] Notably Rouen, Falaise, and Caen; cf. Powicke, pp. 370 ff.

[24] Lines 7437–48, *Histoire de Guillaume le Maréchal*, ed. Paul Meyer (Paris, 1891–1901), with their reference to the king of France with his barons and his armed communes, may even have been facetious. Certain it is that the presence of communal troops at Bouvines and, by implication, in the other battles of this period, becomes constantly more problematical. Borrelli de Serres, *Recherches sur divers services publiques*, i, 501, thinks that the rôle of the communal militia in the wars of this period has been greatly exaggerated and confused with that of the *pedites*; Luchaire, "Les milices communales," pp. 162–163, thinks that the communes were not important at Bouvines and bases his conclusion in part on the prose and verse accounts of the battle by William le Breton; K. Hegel, *Städte und Gilden der germanischen Völker im Mittelalter* (Leipzig, 1891), ii, 68, thinks that Philip Augustus created communes for military reasons and that he used them at Bouvines (he cites the communes which were present but none is Norman); Charles Oman, *History of the Art of War* (London, 1923), i, 474, thinks that Philip Augustus had ten thousand communal soldiers at Bouvines, citing as his authority H. Delpech, *La tactique au xiii^e siècle* (Paris, 1886), i, 6–7; Audoin, *Essai sur l'armée royale*, p. 3, concedes that the rôle of the communal troops at Bouvines has been exaggerated but believes the tendency is now in the opposite direction; H. Bouteiller, *Histoire des milices bourgeoises de Rouen* (Rouen, 1850), p. 22, admits reluctantly that the militia of Rouen has left practically no trace at all in the records of the thirteenth century; H. Delbrück, *Geschichte der Kriegskunst im Rahmen der politischen Geschichte* (Berlin, 1923), p. 431, sees no importance in the presence of communal troops at Bouvines but is sure that they were there; W. Walker, *On the Increase of Royal Power in France under Philip Augustus, 1179–1223* (Leipzig, 1888), p. 105, thinks that the communes were of great military aid to Philip Augustus, but not at Bouvines.

[25] Bouteiller, *op. cit.*, p. 22. [26] Powicke, pp. 264 ff.

the enemy as pleased them best;[27] the communes, when they fought at all, followed this example.[28] It is more than clear from contemporary records that John did not contemplate a real fight to save his duchy.[29]

It is entirely possible, however, that John could have demanded little from the communes in a military way even if he had desired to make a last-ditch struggle worthy of the traditions of his house. The communal charters and writs are surprisingly silent in regard to the military obligations of the communes.[30] These obligations, of course, may have been so well known as to have needed no specific enumeration,[31] for it is certain that the communes owed some military service.[32] The charters of Rouen, however, despite a crescendo of detail as to the privileges of the members of the commune in other connections, do not help us. The duke could hardly have demanded more in 1200 than in 1100 on the military side in spite of numerous grants to the commune in the interim.[33]

John probably gained from his communes, including powerful Rouen, only the ordinary feudal service of the community or even something less in view of the commercial and mercantile occupations of the members of the communal groups. The communal organization may even have been a last and a desperate device for ensuring some military service from groups

[27] Powicke, pp. 370 ff.

[28] *Ibid.*, pp. 377 ff.

[29] *Ibid.*, pp. 381 ff.

[30] Cf. articles 28, 29 of the *Établissements de Rouen*, Giry, *Établissements*, ii, 36; *Rot. Litt. Pat.*, p. 31a (Caen); Round, *Calendar*, no. 137 (Fécamp); L. Delisle, *Recueil des actes de Henri II concernant les provinces françaises et les affaires de France* (Paris, 1909), i, 354 (*État d'Avranchin*).

[31] It is to be remembered that the *Établissements* contain no reference to the election of the peers of Rouen although we know that they were elected (Giry, *Établissements*, i, 432, 434); Stephenson, "Les aides des villes françaises," pp. 282–283, thinks many of the communes had privileges which they had possessed for a long time but which were not enumerated in any record (he cites Flemish examples).

[32] Giry, *Établissements*, i, 176, and ii, 37 (no. 28); L. Valin, *Le duc de Normandie et sa cour, 912–1204* (Paris, 1910), pp. 269–270; Rymer, *Foedera* (London, 1816), i, 138; *Rot. Chart.*, p. 70a, gift of land in Caen "... liberam et quietam de auxilio et talliagio et exercitu et militacione et de omnibus aliis consuetudinibus et omnibus serviciis que a domino exigi possunt vel ab aliquo homine ..."; *Ordonnances des rois de France*, xi, pp. xxi–xxii; Delisle, *B.E.C.*, xiii, 130; Boutaric, *Institutions militaires*, pp. 156 ff.; Borelli de Serres, *Recherches sur divers services publics*, i, 497–498.

[33] Round, *Calendar*, nos. 107–112, especially nos. 109, 110, and 112; Chéruel, *Histoire de Rouen, passim.*

of men primarily interested in other matters and more than a little disinclined to support their duke in an apparently never-ceasing warfare against their nearest and most powerful neighbor. The only possible gain for the duke in military matters from the commune, indeed, seems to have been the greater probability that the military service actually owed by the community would be adequately and promptly rendered. The privileged community was jealous of its rights and proud of its status; it had a strong desire to continue the enjoyment of the financial and legal advantages which had originally reconciled its members to a large money payment for their charter and to the unknown complications of collective responsibility in all matters, including military. The commune was more valuable to the duke than the same community functioning in a strictly feudal way or, a more likely alternative, than the same community escaping wholly or in part the military requirements for which it was theoretically responsible. It is difficult to perceive any other or further advantage of a military nature for the duke in the communal status.[34]

Much of the best evidence for the military theory, furthermore, will hardly bear investigation. The writs to the men of Eu created nothing and the military activities involved were directed against feudal enemies of the duke and not against the French.[35] Even the action of the Norman seneschal at Évreux in the time of Richard, at first so convincing, seems of doubtful value at second glance.[36] It was a time of very considerable and quite unusual stress. French troops were at the gate of the city. The duke was a captive in the Empire, the bishop was dead, and the bishop-elect was with the duke. Since the count of Évreux was a minor, the whole district was under the direct

[34] Luchaire, "Les milices communales," pp. 159–166, denies the importance of the communes in military matters for the French kings in this period; H. Prentout, *Les états provinciaux de Normandie* (Caen, 1925 ff.), i, 61, points out that Philip Augustus took money from the communes in place of men; M. Prou, "Les coutumes de Lorris," *Nouvelle revue historique de droit*, viii, 167, has shown that the free men of towns which were not communes owed military service; cf. Stephenson, "Les aides des villes," *Le moyen âge*, xxix, 425.

[35] Round, *Calendar*, no. 1418; Giry, *Établissements*, i, 439–440; *Rot. Litt. Pat.*, pp. 2a, 8b; cf. *Rot. Chart.* pp. 17b, 102a, for similar writs to burgesses.

[36] *H.F.*, xxiv, *Preuves de la préface*, nos. 21, 22; *M.A.N.*, xv, 161b.

supervision of ducal officers.[37] The inhabitants of the town were aroused so thoroughly that they worked upon the fortifications on Sunday, for which they were duly pardoned by the archdeacon. The seneschal of Normandy, *alter ego* of the duke and therefore possessed of the widest powers, made a commune as an emergency measure, presumably in order to create the framework for concerted action. It may be that he acted in this way primarily in order to control the situation. Whatever his motives may have been, an inquest of 1208 asserted that nothing had been changed by his action. The men of the bishop owed no tallage to count, duke, or king.[38] The duke had the same rights over the bishop of Évreux as those possessed over the other Norman bishops, neither more nor less. The whole incident proves the exceptional power of the Norman dukes or of their seneschals, hardly more. The military basis for the commune, from this evidence, was at the most defense and defense alone.[39]

In 1205, when the loss of Normandy seemed to be an accomplished fact, John displayed enormous energy in England in the organization of the defense of that country against the expected French invasion. He made all England a commune [40] and exacted an oath of allegiance from all males of twelve years of age or more. But, as the chronicler sadly relates, the host which was gathered at Portsmouth in response to the royal summons was never used. The king and a few of his companions did embark but they landed again almost immediately in neighboring Dorsetshire. "Reversus igitur rex cepit de comitibus, baronibus, militibus, et viris religiosis pecuniam iterum infinitam. . . ." [41] This last sentence of the account is

[37] Stapleton, i, pp. cxliii–cxliv.

[38] Round, *Calendar*, no. 414; *H.F.*, xxiv, *Preuves de la préface*, nos. 21, 22.

[39] Cf. Luchaire, *Les communes françaises*, p. 229.

[40] A clear illustration of the vague meaning of the word in this period; cf. McKechnie, *Magna Carta, passim.*

[41] Matthew Paris, *Chronica majora*, ed. Luard (London, 1874, Rolls Series), ii, 103; for conflicting accounts of the expedition of 1205, see Ralph Coggeshall, *Chronicon Anglicanum*, ed. Stevenson (London, 1875, Rolls Series), p. 146; *Histoire de Guillaume le Maréchal*, ed. Meyer, lines 12934–13087; K. Norgate, *John Lackland* (London, 1902), pp. 103 ff.; F. W. Brooks, "William de Wrotham and the Keeper of the King's Ports and Galleys," *E.H.R.*, xl, 573 (the great expense of the expedition).

probably the most illuminating of all. At least the theory that John created or confirmed communes both in England and in Normandy mainly from financial motives is perfectly tenable. It corresponds with the known rapacity of the monarch. It fits in with our knowledge of the Angevin Empire at this time.[42] It is directly in line with the Ricardian tradition and perfectly consistent with every known fact concerning Normandy in the troubled years which preceded the loss of the duchy.[43]

Even the king of France received a liberal reward for the confirmation of communal privileges in this period; [44] Richard and John, so successful in selling every kind of legal document and everything else which possessed a value in the market-place, are known to have been equally successful.[45] But the

[42] J. Tait, "The Firma Burgi and the Commune in England, 1066–1191," *E.H.R.*, xlii, 354–355, points out the need of Richard for money and the great increase in the number of privileged boroughs in England in his reign; he thinks it unlikely that Richard had any love for the towns and concludes that his real motive was financial. Richard is supposed to have said that he would sell London itself if any one would buy it; *H.F.*, xviii, 20.

[43] Luchaire, *Les communes françaises*, p. 14; Delisle, *L'état de l'agriculture*, pp. 128 ff.; R. Génestal, *La tenure en bourgage, étude sur la proprieté foncière dans les villes normandes* (Paris, 1900), p. 227, emphasizes the economic as against the juristic motives in the creation or confirmation of privileged Norman burgs even in the earlier period. See *Rot. Litt. Pat., passim*, for innumerable grants of all sorts of privileges to all sorts of persons and institutions, all for money and none conceivably for defense.

[44] L. Delisle, *Catalogue des actes de Philippe-Auguste* (Paris, 1856), no. 938; *Ordonnances des rois de France*, xi, pp. xix–xx; N. Brussel, *Nouvel examen de l'usage général des fiefs en France pendant le xi^e^, le xii^e^, et le xiv^e^ siècles* (Paris, 1750), i, 409; A. Le Prévost, *Mémoires et notes pour servir à l'histoire du département de l'Eure*, ed. Delisle et Passy (Évreux, 1862), i, 106; J. W. Thompson, *The Development of the French Monarchy under Louis VI le Gros, 1108–1137* (Chicago, 1895), pp. 85, 88; A. Luchaire, *Louis VII — Philippe-Auguste — Louis VIII, 1137–1226*, in *Histoire de France*, ed. E. Lavisse, iii,1, pp. 229–231; Luchaire, *Les communes françaises*, pp. 280, 282–283, stresses the military factor but admits finance as one element in the question.

[45] Bémont, *Revue historique*, cxxiii, 13 (Bordeaux); Powicke, *E.H.R.*, xxi, 642; see Delisle, *Cartulaire normand*, nos. 210, 211, for the financial advantages which others derived from Rouen by way of alms; Deck, *Eu*, pp. 77–78, thinks Eu probably bought its first charter in 1151 and profited thereafter each time the count was in financial difficulties (it is pointed out that Abbeville bought its charter as a commune); for Falaise, see Giry, *Établissements*, i, 48; *Ordonnances des rois de France*, vi, 641; O. Bire, "Étude historique de la foire de Guibray depuis l'origine jusqu'au xvi^e^ siècle," *Congrès du millénaire de la Normandie (911–1911), Compte rendu des travaux* (Rouen, 1912), i, 310 ff., 316–317; *Cartulaire normand*, no. 111 (Falaise and Domfront). The very considerable sums paid to John by the English boroughs in this period for confirmation of their privileges may be found in *Rotuli de Oblatis et Finibus*, ed. T. D. Hardy (London, 1835), pp. 1, 4, 8, 11, 53, 59, 66, 67, 70, 99, 113 (Lincoln, Cambridge, Oxford, London, Scarborough, York, Northampton, Shrewsbury, Kingston, Beverley, Dunwich, and others); similar examples may be found in *Rot. Chart.*, pp. 5a, 14b, 26a, 32a, 40a, 41a, 46a, 52b,

immediate financial return from the sale of a communal charter was only the beginning. Additional privileges could be sold at a later date; the grant itself was seldom in perpetuity.[46] Not only was there an annual *firma* to be paid by the inhabitants of the commune as a group,[47] usually increased in amount over the previous revenue from the town,[48] but there were many other sources of revenue for the duke which were associated with the commune. In most instances these additional revenues increased rapidly in amount with the development of communal prosperity. The duke owned houses in the communes,[49] exacted fines, and forced loans.[50] A whole group of payments from the communes resulted from the ducal control over commerce on both land and water.[51] There were tolls on merchandise in transit, sale taxes,[52] port dues, fees connected with fairs,[53] taxes in connection with navigation upon the Seine and other rivers,[54] and taxes in connection with mills,[55] fishing, saltworks, weights and measures,[56] coinage,[57] and the like.[58]

These revenues, of course, could be and doubtless had been collected by ducal officials.[59] Many of these payments were not

56ab, 83ab, 130b, 137a, 138ab, 142ab. We are not as well informed for the Norman communes, but can there be any doubt that a substantial money payment accompanied such a grant as that to Caen in 1203, *Rot. Litt. Pat.*, p. 31a?

[46] Tait, *E.H.R.*, xlii, 341, 353.

[47] Thomas Madox, *The History and Antiquities of the Exchequer of the Kings of England* (London, 1769), i, 524–525; Thomas Madox, *Firma Burgi* (London, 1726), *passim*; for individual Norman examples, see Stapleton, i, 69 (Rouen), 84 (Verneuil), 153 (Rouen), 239 (Conteville); *ibid.*, ii, 303 (Rouen), 304 (Rouen), 506 (Saint-Marcoulf).

[48] Walker, *Increase of Royal Power*, pp. 103–105; Deck, *Eu*, p. 76; Legris, *Le livre rouge d'Eu*, p. xiii; Brussel, *Usage des fiefs*, i, 409; Tait, *E.H.R.*, xlii, 341; *Ordonnances des rois de France*, xi, p. xx; cf. *ibid.*, xi, 276.

[49] Delisle, *B.E.C.*, xi, 405; *Rot. de Oblatis*, p. 116 (Carlisle); *Rot. Chart.*, pp. 10a (Falaise), 30a (Limerick).

[50] Powicke, p. 347. [51] Delisle, *B.E.C.*, xi, 403 ff.

[52] Stapleton, i, 53 (Caen).

[53] Stapleton, i, 30; *Antiquus Cartularius Ecclesiae Baiocensis* (*Livre noir*), ed. V. Bourrienne (Paris, 1902–03), no. 184; *Congrès du millénaire normand*, i, 316–318; Delisle, *B.E.C.*, xi, 414–417.

[54] *Rot. Litt. Pat.*, p. 16b; Delisle, *B.E.C.*, xi, 419–420.

[55] The mills of Rouen were worth 3000 *livres* a year, Delisle, *B.E.C.*, xi, 435–436; de Fréville, *Commerce maritime*, ii, no. 17; *Cartulaire normand*, no. 50; *Layettes du trésor des chartes*, ed. A. Teulet (Paris, 1863–75), i, no. 500.

[56] *Histoire de Guillaume le Maréchal*, iii, 158. [57] Delisle, *B.E.C.*, xi, 417.

[58] *Rot. de Oblatis*, p. 185, London paid 60 marks 'pro gilda telaria delenda.'

[59] Brussel, *Usage des fiefs*, i, 409; Holtzmann, *Verfassungsgeschichte*, p. 172.

regularly included in the formal accounting of the town's officials with the Exchequer; some of these payments may never have been so included. The commune, however, was responsible as a group for the ducal revenue of the district. This responsibility may have been indirect in part but it was direct enough for the bulk of the amount involved. The commune was actively engaged in the commerce from which so much of the ducal revenue came. It was closely associated with the neighboring castle; the castellan [60] of the latter watched the potential treasure chest of the adjacent commune no less carefully than the actual treasure chests in the strong-room of the castle tower. The commune, with its obvious advantages for both sides,[61] certainly played an important part in the ducal exploitation of the duchy.[62] The convenience and the efficiency of the commune as a unit in the collection of tallage alone would probably have recommended it as a fiscal unit to the administrative officials.[63] The wealth of the Norman communes in this

[60] This official was much more than merely a military person; his relation to the administrative machinery of the duchy should be investigated in detail.

[61] Both the cathedral church at Rouen and the abbey of Fécamp used the device of collective responsibility in finance on their feudal estates (Round, *Calendar*, nos. 11, 125); Luchaire, *Institutions monarchiques*, ii, 156–157; Luchaire (Lavisse), p. 228; *Rot. de Oblatis*, p. 66, the men of Kingston pay 60 marks for having the *villa* of Kingston in their own hands and agree to pay annually £12 more than they have paid in the past; M. Hemmeon, *Burgage Tenure in Medieval England* (Cambridge, 1914), p. 155, shows the *firma burgi* to have been expensive but money well spent for the town; Powicke, *E.H.R.*, xxi, 642, for the commercial activity of the Norman towns under John; W. A. Morris, *The Medieval English Sheriff to 1300* (London, 1927), pp. 95, 100, 129–130; Bémont, *Revue historique*, cxxiii, 5.

[62] Tait, *E.H.R.*, xlii, 339; Delisle, *B.E.C.*, x, 257, 283; Hemmeon, *op. cit.*, p. 155; Giry, *Établissements*, i, 433.

[63] The whole question of tallage is a difficult one and needs further study. The Exchequer records of Normandy under Richard and John indicate clearly that the Norman duke collected large sums throughout the duchy by tallage and that the communes were not immune, *post* note 116; cf. Stapleton, i, 263–264, "tallagii facti per communiam Baiocensem." On the other hand, Philip Augustus agreed that the men of Rouen were to render tallage only of their own free grant and not as a customary payment, in his charter of 1207: A. Duchesne, *Historiae Normannorum Scriptores Antiquae* (Paris, 1619), p. 1063. Exemption from tallage may be found in other charters of the period, e.g., Le Prévost, *Eure*, i, 106 (Andeli); see also Powicke, pp. 346–347; Powicke, *E.H.R.*, xxi, 642; Delisle, *B.E.C.*, xiii, 130 ff.; S. K. Mitchell, *Studies in Taxation under John and Henry III* (New Haven, 1914), pp. 341 ff.; Madox, *Antiquities of the Exchequer*, i, 763; Delisle, *État de l'agriculture*, appendix no. III; Rymer, *Foedera*, i, 138. The most recent work on the question of tallage has been done by Professor Carl Stephenson. The following references will present his view that tallage was a sign of servility and one of the principal things which a group of burgesses would desire to abolish; the towns, he

period is clearly indicated by their substantial loans to John.[64]

The Norman duke, by the end of the twelfth century, no longer took revenue directly from the major part of his duchy.[65] The great honors and the great monastic foundations were numerous and wealthy and they were not under the direct control of ducal officers. The remaining ducal possessions were scattered and scanty. In these demesne lands it was difficult to maintain the ducal position, especially in finance; yet the maintenance of the ducal position probably meant that the inhabitants were denied the commercial opportunities from which alone additional revenues might be expected. Certainly the most profitable portions of the ducal holdings, under John, were communes.[66] In other words, it would appear that even John inherited some of the renowned administrative skill of his father.[67] In a period in which the disintegrating forces of feudalism were patent and the inadequacy of manor and fief evident he had the wit to attempt to increase his funds by a device commonly deemed dangerous. The commune tended to give back some of the authority which had earlier slipped from the ducal hand; the commune, despite all its privileges, was under effective ducal supervision.[68] As in the case of the

thinks, reduced tallage to a fixed payment, did not pay feudal aids like a true feudal vassal, and therefore forced the king to various expedients if he would raise money in the towns, such as taxes upon the towns in place of military service, *fouage*, and, eventually, the calling of the Estates; Stephenson (*ante* note 4 for places and dates of publication), "Origin and Nature of the 'Taille,'" pp. 801–802, 842, 851; "La taille dans les villes d'Allemagne," pp. 1–2, 10–11, 22, 35, 41–42; "La taille dans les villes françaises," pp. 281, 284, 300–302, 307–309, 326 [cf. also Stephenson's article in this volume, pp. 291–312. — ed.]. Cf. Prentout, *Les états provinciaux de Normandie*, i, 66–68.

[64] Stapleton, i, 156 (Rouen), 209 (Pont Audemer), 247–248 (Bernai); *ibid.*, ii, 330 (Lisieux), 348 (Caen), 449 (Eu); *Rot. Litt. Pat.*, p. 28b (Verneuil); Teulet, *Layettes*, iii, 544b; Ch. Petit-Dutaillis, *Étude sur la vie et le règne de Louis VIII* (Paris, 1894), appendix VI, no. 454.

[65] Delisle, *B.E.C.*, x, 287–288; *H.F.*, xviii, 160 (Geraldus Cambresensis).

[66] Delisle, *B.E.C.*, xi, 401–402.

[67] Cf. H. Jenkinson, "Financial Records of the Reign of King John," *Magna Carta Commemoration Essays* (Royal Historical Society, 1917), pp. 267–269, 273–282, 300; S. R. Packard, "Miscellaneous Records of the Norman Exchequer, 1199–1204," *Smith College Studies in History*, xii, 7. The final word has not yet been said concerning the character and the abilities of John; the present writer has made one or two suggestions in his *Europe and the Church under Innocent III* (New York, 1927), pp. 56–70.

[68] Giry, *Établissements*, i, 439–440; Holtzmann, *Verfassungsgeschichte*, p. 172; Viollet, *Les communes françaises*, p. 82; Luchaire, *Les communes françaises*, p. 102; *Ordonnances des rois de France*, xi, 35–37, points out that the French kings favored the communes be-

forests, a special administrative device was necessary.[69] There was undoubtedly considerable protest from many sides.[70] To give the commune a court adequate for the judicial needs of its inhabitants was surely to call forth a flood of protests from both feudal and ecclesiastical sources. Here the commune played a rôle similar to that of the *bailli* and that of the itinerant in the dramatic conflict of ducal centralized power against feudal and ecclesiastical prerogative.[71]

A number of other factors point to this same conclusion that the Norman communes were after all created and confirmed primarily for financial reasons. The duke was an important investor in communal real-estate and thus in a position to profit from communal prosperity.[72] The Jews, special wards of the Norman dukes and a major source of ducal revenue, were grouped in the towns and closely allied with their fortunes.[73] The Norman communes came to an end only when their financial condition became involved; it was financial weakness which delivered them into the hands of the French kings a century later.[74]

Of course there were other factors than the financial in the origin and growth of the Norman communes, including the military.[75] There was always the frontier commune to be reckoned with, exceptional in every way.[76] The existence and

cause they tended to maintain law and order; Powicke, *E.H.R.*, xxi, 643, thinks that the baronage in Normandy had been as effectively ousted from power in the twelfth century as the baronage in England in the same period; he is of the opinion that Rouen, Caen, and Falaise were as important as any three towns in England.

[69] Delisle, *B.E.C.*, xi, 444 ff.; cf. the grant of the forest franchise to 57 men of Lyre in 1198 by the earl of Leicester, Archives of the Eure, H 486; cf. *H.F.*, xxiv, *Querimoniae*, no. 250.

[70] Génestal, *La tenure en bourgage*, pp. 91–93.

[71] Cf. Giry, *Établissements*, i, 440.

[72] Delisle, *B.E.C.*, xi, 403–404; Chéruel, *Histoire de Rouen*, i, 83; Petit-Dutaillis, *Louis VIII*, p. 382.

[73] *Rot. Litt. Pat.*, pp. 33a (London), 37a (Rouen and Caen); *Rotuli Normanniae*, ed. T. D. Hardy (London, 1835), pp. 116 (Rouen and Caen), 121; Delisle, *B.E.C.*, xiii, 134; Brussel, *Usage des fiefs*, i, 600–601, thinks that the Jews were obliged to live near the castles in the towns; cf. E. Perrot, *Arresta Communia Scacarii* (Caen, 1910), p. 1 (1276); *ibid.*, p. 6, he points out that the Jews did not perform the duties of castle-guard as the other inhabitants of the town were obliged to do.

[74] Luchaire, *Les communes françaises*, pp. 190–191, 204–205.

[75] *Rot. Litt. Pat.*, pp. 2a, 13b, 14a; Stapleton, ii, 419, 445, 447, 501.

[76] Luchaire, *Les communes françaises*, p. 281; Legris, *Livre rouge d'Eu*, p. x; Bémont,

confluence of trade-routes played their part in Normandy as elsewhere in Europe in creating and maintaining towns.[77] The intense rivalry of Rouen and Paris, so important in the period before 1204, will explain much of the ducal interest in Rouen.[78] The transportation needs of the Norman dukes at Dieppe explain the development of that urban group.[79] Hostility to the church, the need for more adequate judicial organization in the increasingly complex life of the urban communities of the duchy,[80] and many other factors must be borne in mind in any complete evaluation of the forces inherent in the communal movement in ducal Normandy. Many of these factors are as difficult to appraise as the undoubted but ill-defined influence of the great Flemish towns to the north [81] or of the English towns, particularly London, a few short miles across the channel.[82]

Of all these reasons for the origin and growth of the Norman communes under Richard and John, the financial needs of the Norman dukes seem to have been most fundamental, plausibly explaining the activities of Richard and John in this direction and completely consistent with all the evidence now at our disposal.[83]

II

The sum total of extant evidence for the internal organization of the Norman communes in this period is surprisingly small in view of the number and the activity of the units involved.[84]

Revue historique, cxxiii, 1 ff.; Prentout, *Les états provinciaux de Normandie*, i, 50; the frontier town was often expensive for the duke, even as a fortress: Stapleton, ii, 444.

[77] Giry, *Établissements*, i, 24–25; de Fréville, *Commerce maritime*, i, 108–109, 117 ff.; H. Prentout, *Introduction à l'histoire de Caen* (Caen, 1904), p. 34.

[78] Teulet, *Layettes*, i, no. 913; *Cartulaire normand*, nos. 1185, 1186.

[79] Stapleton, *passim*; *Rot. Norm.*, *passim*.

[80] Luchaire, *Institutions monarchiques*, ii, 156–157; Chéruel, *Histoire de Rouen*, i, 57–59. Giry, *Établissements*, i, 29–30; Delisle, *État de l'agriculture*, p. 137.

[81] Ed. Van Bréma, "Relations commerciales du passé entre Rouen et la Hollande," *Congrès du millénaire normand, Compte rendu des travaux*, i, 79 ff.

[82] De Fréville, *Commerce maritime*, i, 107; McKechnie, *Magna Carta*, pp. 286–288.

[83] Cf. Hemmeon, *Burgage Tenure*, p. 13; Holtzmann, *Verfassungsgeschichte*, p. 170; Powicke, pp. 326–327. Giry, "Commune," *La grande encyclopédie*, does not mention finance in his estimate of the origins of the French communes.

[84] Deck, *La ville d'Eu* (Paris, 1924), an excellent monograph, depends for its details almost entirely upon documents of the fourteenth century and later.

Rouen, to be sure, has furnished us with something akin to a constitutional charter.[85] Yet even this document, though lengthy and addicted to detail, does not inform us at all on many points which we consider of the greatest importance. The *Établissements* contain no reference, for example, to the election of the peers of Rouen although we are certain that the peers constituted the administrative heart of the commune, both by implication from the document itself and because of a good deal of other evidence.[86] The argument from silence is a dangerous one but it is not inherently false. If the people of Rouen were so accustomed to the processes by which the peers were selected as to need no statement of this machinery in a document professing to deal with matters of this kind,[87] then the principles of communal organization were well known in Rouen at least and may have been clearly understood in all the urban communities throughout the duchy.[88]

So much of the machinery of life in the twelfth century, after all, was customary.[89] Even the most crucial problems of church

[85] Giry, *Établissements*, ii, 2 ff.; cf. Luchaire, *Les communes françaises*, pp. 129, 135.

[86] Chéruel, *Histoire de Rouen*, i, 260–261; Luchaire, *op. cit.*, p. 130, points out that most of the communal charters of France have *lacunae* in regard to the constitution of the magistracy; the records of Bordeaux are silent as to the election of its mayor (Bémont, *Revue historique*, cxxiii, 5); some of the known details of the organization of Eu are not to be found in its charters (Legris, *Livre rouge d'Eu*, p. xv; cf. Deck, *Eu*, pp. 89–90).

[87] Ballard, *E.H.R.*, xiv, 101, thinks that borough councils existed in the free boroughs of England of this period although there is no reference to them in the charters of John; cf. Deck, *Eu*, p. 122; cf. L. Valin, *Recherches sur les origines de la commune de Rouen* (Rouen, 1911), p. 15.

[88] J. Tait, "Liber Burgus," *Essays in Medieval History presented to Thomas Frederick Tout* (Manchester, 1925), p. 97, thinks that any grant to burgesses of a borough in fee and in inheritance, with reservation of a money rent only, was a grant of free burgage. Cf. the following references for the ubiquity and strength of the communal idea in Normandy and adjacent lands in this period: Archives of the Eure, H 846 (1198), grant of forest rights to 57 men of Lyre; B.N., MS. lat. n. a. 1244, fol. 161 (1189), the election by the men of Agen of 'pontenarii communi villae consilio'; A. Du Monstier, *Neustria Pia* (Rouen, 1663), p. 859, mention of rural communes (1235); *Rot. Chart.*, p. 1b, (1199, Angély) "quod ipsi communam habeant cum omnibus libertatibus et liberis consuetudinibus ad communam pertinentibus"; *Cartulaire normand*, no. 310 (1222), grant of lands to be held according to the use and custom of Normandy and Vernon.

[89] Stephenson, "Les aides des villes françaises," pp. 282–283, thinks that the communes often had had privileges so long and held them so firmly that these were not stated at all in the records (his examples are Flemish); Deck, *Eu*, pp. 74 ff., says that burgage tenure was a fact in Eu as early as 1119 but the name does not appear in any record of the town prior to 1256; we know almost nothing concerning the early organization of Eu (*ibid.*, p. 80).

and state in 1205 were settled only by recourse to the memories of the elder statesmen.[90] We have no great inquest devoted to communal privileges in general for the same period,[91] doubtless because the powers that were, feudal, noble and ecclesiastic, knew little and cared less about the communes and their problems. Yet the communal system had existed from the time of the Conqueror.[92] We know its details in some profusion for Rouen under Richard and John. We are justified in thinking that certain of the other communes of the duchy, notably Alençon, Andeli, Falaise, Pont Audemer, and Verneuil, possessed the Rouen arrangements.[93] It is not impossible that this list should be further augmented by the names of Évreux, Harfleur, Bayeux, and Domfront.[94] Still other communities, not definitely organized as communes, may have enjoyed one or more of the privileges essential to such a unit.[95]

Successful communes were not ordinarily created out of hand. In the nature of things there could have been no communes until communities existed capable of assuming the communal status.[96] Such communities were numerous within

[90] G. Bessin, *Concilia Rotomagensis Provinciae* (Rouen, 1717), pp. 104–105.

[91] Inquests may be found in the records for specific communities, *Cartulaire normand*, no. 111 (Falaise and Domfront, in 1204); or references to such inquests, Stapleton, ii, 381 (Pont-Sainte-Marie, in 1198).

[92] Haskins, *Norman Institutions*, pp. 48–49.

[93] Giry, *Établissements*, i, 46–47.

[94] Even Eu seems to have resembled Rouen more than its own prototype, Saint-Quentin, by 1200: Legris, *Le livre rouge d'Eu*, p. xvi, and Deck, *Eu*, pp. 78, 80–81, 85. There were non-Norman towns which possessed the Rouen arrangements or something quite similar; see Giry, *Établissements*, *passim*; Bémont, *Revue historique*, cxxiii, 3 ff.; M. Bateson, "A London Municipal Collection of the Reign of King John," *E.H.R.*, xvii, 567 ff.; cf. J. H. Round, *The Commune of London* (Westminster, 1899), pp. 237–239.

[95] The great abbey of Fécamp was like a commune as far as its relations with the Exchequer were concerned: *Rot. Litt. Pat.*, p. 30; Stapleton, i, 90, 167, 168; *ibid.*, ii, 560; cf. Luchaire (Lavisse), p. 228, and Ballard, *E.H.R.*, xiv, 97, for other examples. Community coöperation of various sorts may be found in the records where no commune existed; Bessin, *Concilia*, ii, 57 (election of custodians from the parish for treasure of the church, thirteenth century); Stapleton, ii, 570 (parish); cf. *ibid.*, ii, 382; also Delisle, *État de l'agriculture*, p. 138 and note no. 42. For rural communes and federations, see Luchaire (Lavisse), p. 392; Luchaire, *Les communes françaises*, pp. 68 ff. The commune, when it did exist, could include other elements; cf. *H.F.*, xxiv, *Querimoniae*, no. 222, "pro se . . . et omnibus hominibus . . . que tenet per burgesiam et censivam."

[96] Vernon seems to be a good example of the community which possessed privileges and some of the earmarks of a commune, e.g., a mayor, but was not a commune; Philip

the duchy during the twelfth century;[97] many became communes under the last two dukes and many others, it may be supposed, did not. In either case it is clear that the Normandy of Richard and John found itself able to think in communal terms; apparently the communal organization of life was widespread and thoroughly understood.[98] The mere fact that the great cities of the duchy were content to make their terms with the French conqueror in 1203–1204 through communal charters and the confirmation of communal privileges[99] indicates the value placed upon the administrative machinery of the commune by its members and their confidence in its underlying principles.

Two things at the very least, however, must have been at the bottom of this communal organization; some form of autonomy in the administration of justice and some kind of autonomy in finance.[100] Since the commune was part and parcel of the feudal world of its day we should expect to find the administration of finance intimately associated with that of justice. The feudal world was built squarely on a fusion (the modern world would call it a confusion) of finance, justice, and military

Augustus confirmed its privileges when he conquered it in 1196; see Lebeurier, "*Coutumes de Vernon au xii^e siècle*," *B.E.C.*, xvi, 522. Cf. Prentout, *États provinciaux*, i, 50; Bateson, *E.H.R.*, xvii, 480. Pollock and Maitland, *The History of English Law*, i, 650, point out that the *firma burgi* came to a town often late in its life and that many manors also had it; the manorial origin of the town is a good deal more apparent in some other parts of France than it is in Normandy; for the communes of Champagne, see R. Bourgeois, *Du mouvement communal dans le comté de Champagne aux xii^e et xiii^e siècles* (Paris, 1904), pp. 167–172.

[97] Groups of men may be found accounting for their debts at the Exchequer on the great rolls; in most instances they did not constitute communes; see Stapleton, i, 140, 222, 277, 382; *ibid.*, ii, 292, 298–299, 366, 389–390, 424, 465, 488, 496.

[98] The grant made by Eleanor to La Rochelle, B.N., MS. lat. n. a. 1244, no. 12, assumes a general understanding of what a commune was; cf. Round, *Calendar*, nos. 1251–1253, for the earlier charters. The presence of burghers and their problems in the *Très Ancien Coutumier*, c. 5 (3), and c. 56 (4), in *Coutumiers de Normandie*, ed. E. Tardif (Rouen, 1881), argues for the substantial age of burgage tenure in Normandy at least as early as 1200.

[99] Powicke, pp. 378, 383 ff.

[100] The available evidence for the English boroughs under John had been analyzed by Ballard, *E.H.R.*, xiv, 93–98, 101, 104; cf. L. Delisle, *Catalogue des actes de Philippe-Auguste* (Paris, 1856), nos. 21, 486; Luchaire, *Les communes françaises*, p. 14, thinks that the essential characteristics of a commune were single annual payments, legally determined fines, and the cessation of servile pecuniary charges (he quotes Guibert de Nogent, *De vita sua*, ed. Bourgin, book iii, chapter vii).

service; from this characteristic the communes, though autonomous units within certain limits, could not be immune.[101]

Thus the communes had courts of their own for their own needs, and communal charters, if they contained any specific clauses at all, were very likely to stipulate the exact relationship between the communal courts and those of the local lord or duke.[102] A large commune, such as Rouen, was almost surely a true collective seignory.[103] Its mayor was the equal of any feudal lord.[104] The town had a *banlieu*.[105] The communal courts were adequate for most matters which could arise within its area, including especially and often specifically cases affecting strangers and debtors. The inhabitants of the town were not ordinarily justiciable elsewhere.[106] Documents of all kinds which originated within the town were not properly authenticated unless sealed by its mayor.[107] The town had the supervision of minors and their property, doubtless under the watchful eye of the nearest *bailli*.[108] The property of a member of the commune who died leaving no heirs probably escheated to the commune itself.[109]

[101] Borrelli de Serres, *Recherches sur divers services publics*, i, 498, points out that the creation of a commune often meant a weakening of the feudal bond and the substitution of the king or duke for the local lord but it did not mean the breaking of the feudal bond.

[102] Teulet, *Layettes*, nos. 300, 306, 307, 312; Holtzmann, *Verfassungsgeschichte*, p. 170; Delisle, *État de l'agriculture*, p. 139; Delisle, *Recueil des actes de Henry II*, pp. 345 ff.; Lebeurier, *B.E.C.*, xvi, 524; *Rot. Chart.*, pp. 5a (Lincoln), 20b (Norwich); Ch. Gross, "Modes of Trial in the Medieval Boroughs of England," *Harvard Law Review*, xv, 691.

[103] *H.F.*, xxiv, *Preuves de la préface*, no. 100; Petit-Dutaillis, *Louis VIII*, p. 390.

[104] The mayor seems to have been elected in many cases by the lord of the commune from three candidates selected by the commune itself, Deck, *Eu*, pp. 84, 89; Legris, *Le livre rouge d'Eu*, p. xviii; Ballard, *E.H.R.*, xiv, 98, comments upon the election of the mayor of London in this period; the office seems to have existed in the early thirteenth century apart from its incumbents, *H.F.*, xxiv, *Preuves de la préface*, nos. 59, 62.

[105] Delisle, *État de l'agriculture*, p. 40; Deck, *Eu*, p. 85.

[106] Ballard finds that 23 of 66 English borough charters specify that the burgesses are not to be impleaded outside the walls of the town: *E.H.R.*, xiv, 93; cf. Chéruel, *Histoire de Rouen*, i, 72; Legris, *Le livre rouge d'Eu*, pp. xi–xii.

[107] Legris, *Le livre rouge d'Eu*, pp. xxi–xxii; *M.A.N.*, xv, 203; B.N., Coll. Clairambault, vol. dccccxcv (Stein, no. 2059), fols. 38, 51; *ibid.*, MS. lat. 5423 (Stein, no. 3242), fol. 186 (Rouen, in 1216); Andrieux, *Cartulaire de l'abbaye royale de Notre Dame de Bon-Port au diocèse d'Évreux* (Évreux, 1862), no. 27 (Rouen); L. de Kermaingant, *Cartulaire de Saint-Michel du Tréport* (Paris, 1880), no. 74 (Eu, in 1202); Archives of the Calvados, H 1218 (Caen, in 1206).

[108] Génestal, *La tenure en bourgage*, p. 19; Legris, *Le livre rouge d'Eu*, p. xxi.

[109] Cf. Ch. Gross, "The Medieval Law of Intestacy," *Harvard Law Review*, xviii,

The question of conflicting jurisdictions, communal with royal or ecclesiastical,[110] was as vital in the town as anywhere else. The solution may have been the same as in the case of the great feudal honors; [111] at any rate we do find the mayor and peers of Rouen holding a joint court with the ducal justiciar.[112] Arrangements were made, very naturally, to safeguard the pleas of the sword upon all occasions and to save for the duke the financial prerogative of the overlord.[113] It must be remembered, however, that not all the inhabitants of a town possessed its privileges; each and every ducal, feudal, or ecclesiastical enclave was a perpetual source of potential jurisdictional conflict.[114]

In finance, likewise, the commune was a unit. It accounted at the Exchequer through its own officials.[115] This is almost the distinctive feature of the commune and was certainly one of the principal objectives in working out the communal idea.[116] Communal officials, as a result, were on a par with the administrative officials of the duchy in general.[117] Ducal writs to

121 ff., where the statement is made that the chattels of a man dying intestate belonged to the king but that the towns frequently purchased exemption; cf. Stapleton, i, 69, 143 (Rouen).

[110] Deck, *Eu*, p. 104, explains the lack of conflict of town and clergy in Eu by the fact that the clergy in Eu had no considerable privileges; cf. *H.F.*, xxiv, *Querimoniae*, no. 256.

[111] Cf. S. R. Packard, "The Judicial Organization of Normandy, 1189–1204," *Law Quarterly Review*, xl, 462.

[112] Bibliothèque municipale de Rouen, MS. 1227 (Saint-Georges de Boscherville), fols. 100–101, "Actum fuit in Rothomagum coram Willelmo de Malpalu tunc justiciario domini regis et coram Bartholomeo Fergant tunc majore et coram paribus communie."

[113] Eu did not have high justice (Deck, *Eu*, p. 84); nor did Falaise and Domfront, (*Cartulaire normand*, no. 111); *ibid.*, no. 1112, for the peculiar arrangements at Nonancourt for the duel; *ibid.*, no. 201 (Vernon); cf. *Rot. Chart.* pp. 45b, 56a, 83b, 91a, for English examples.

[114] Deck, *Eu*, pp. 106–109; cf. *Rot. Chart.*, p. 93a (Jews).

[115] Stapleton, ii, 303 ff. (Rouen).

[116] One of the main objectives of the communes was to get rid of arbitrary tallage according to Stephenson, "Les aides des villes françaises," pp. 307–308; see also Stephenson, "Les aides des villes d'Allemagne," pp. 22, 35; also Stephenson, "The origin and nature of the 'Taille,'" pp. 801–802, 842. Even the English counties tried to get rid of the sheriff in this period: Morris, *The Medieval English Sheriff*, pp. 95, 100, 129, 145; cf. *Rot. Chart.*, pp. 5a, 26a, 45b, 52b, 56a, 56b; see Delisle, *B.E.C.*, x, 283 and notes; *Pipe Roll — 31 Henry II*, ed. J. Hunter (London, 1833), pp. 16, 114, 135, 138; Tait, *E.H.R.*, xlii, 339, 352–355, 359.

[117] *Rot. Norm.*, pp. 104–106, 108, 117.

the mayor and peers of Rouen have the flavor of corresponding instructions to the Exchequer officials and the *baillis*;[118] the mayor and peers of Rouen were to all intents and purposes administrative officials of the duchy, though closely associated with the commune and both elected and controlled, or at the least closely watched, by their fellow-townsmen. Outside the commune its members could and often did enjoy special privileges as ducal vassals almost as if they were members of the great monastic foundations.[119] Within their own town, however, they were small bits of a collective lordship with numerous responsibilities and considerable but restricted powers as a group.[120]

As a group the commune collected and paid to the Exchequer the lump sum which represented their continuous financial obligations to the duke.[121] That this privilege was vital to the commune and highly valued is clear from the high fees by which they purchased it. As a group they continued established charities out of current income and coöperated with the Exchequer and its officials in various financial business based upon the ever present writ.[122] Moreover, the communes often possessed in their own name forest rights,[123] trading priv-

[118] *Rot. Norm.*, p. 49; Round, *Calendar*, no. 44.

[119] Delisle, *Recueil des actes de Henry II*, introduction, pp. 345 ff.

[120] Ballard, *E.H.R.*, xiv, 95; Delisle, *État de l'agriculture*, p. 39; Round, *Calendar*, no. 129, where the exemptions of crown demesne property are enumerated for the abbey of Fécamp; Perrot, *Arresta Communia Scacarii*, p. 6; *Rot. Chart.*, pp. 80b–81a, 86b; *Rot. Litt. Pat.*, p. 28b, guarantee of the duke of a debt of five hundred *livres* owed by Henry de Grai to the burgesses of Verneuil. The whole question of burgage tenure is far from clear; see Round, *Calendar*, no. 949; Génestal, *La tenure en bourgage*, pp. 16–18; *Très Ancien Coutumier*, c. 5 (3), c. 8 (1, 5), c. 11 (5).

[121] Delisle, *B.E.C.*, x, 283; xi, 404–405; xiii, 130, 132; *Cartulaire normand*, no. 111; *H.F.*, xxiv, *Querimoniae*, no. 253; Stephenson, "Les aides des villes françaises," pp. 284, 292–293, 309, 327–328. It is obvious that there was a considerable revenue for the duke from the communes whether as farm, rents or tallage. On tallage see Luchaire, *Les communes françaises*, pp. 53, 198; *Rot. Norm.*, pp. 101–102 (Caen), 107 (Pont Audemer). The tallage entries for the communes on the great rolls are numerous; see Stapleton, i, 74 (Leons), 76 (Nonancort), 172–183 (4000 marks of tallage in Caen for ransom of Richard), 263–264 (tallage "per communiam Baiocensem"), 270 (Falaise); *ibid.*, ii, 292 (Pontorson), 298–299 (Coutances), 330 (Bernai and Cormeilles), 330 (Lisieux), 346–348 (Caen), 353 (Ambrières), 366 (Pont l'Évèque), 384 (Bayeux), 389 (Séez and Alençon), 396–397 (Alençon), 411 (Argences and Troarn), 424 (Aufai), 447 (Eu), 465 (Caen), 488 (Louviers), 496 (Domfront), 501 (Eu and Rouen).

[122] Stapleton, *passim*; *Rot. Litt. Pat.*, *passim*.

[123] Delisle, *État de l'agriculture*, pp. 155–156; *H.F.*, xxiv, *Querimoniae*, no. 45.

ileges,[124] and numerous valuable concessions of various kinds.[125] The communes were essentially industrial and commercial entities; as such their financial aspects were of the greatest importance.

Many communities within the duchy possessed one or more of these coveted financial privileges, even including collective responsibility at the Exchequer, and yet did not possess the communal status legally.[126] Such communities were in no position to define or defend their rights against the Anglo-Norman government, whether in the careless hands of Richard or in the ruthless grasp of John.[127] The relative security of the communal organization was absolutely essential for the community which was self-conscious of its own unity and would be rid of the disturbing interference of ducal officials, especially in finance.[128] Burgage tenure, for example, meant payments for the individual member which resembled rent and took the place of all other exactions, an inestimable boon to industrialist and merchant alike, but burgage tenure could not be stable without a communal organization to maintain it.[129] In the troubled days of the last Plantagenet dukes of Normandy communal charters were almost literally worth their weight in gold.[130]

[124] Powicke, *E.H.R.*, xxi, 642; cf. Ballard, *E.H.R.*, xiv, 99; see *Cartulaire normand*, no. 50; *Rot. Litt. Pat.*, pp. 13b, 16b, 26b; *Rot. Chart.*, pp. 28b, 40b, 83a.

[125] Delisle, *État de l'agriculture*, pp. 154–155; Stephenson, "Les aides des villes françaises," pp. 278, 281; Génestal, *La tenure en bourgage*, p. 32; *H.F.*, xxiv, *Querimoniae*, nos. 397, 398, 400; *Cartulaire normand*, no. 50; *Rot. Chart.*, p. 95b; de Fréville, *Commerce maritime*, ii, no. 19; Chéruel, *Histoire de Rouen*, i, 260–261; Delisle-Berger, *Recueil des actes de Henri II*, i, nos. 266, 294.

[126] See Delisle, *État de l'agriculture*, pp. 137–138, 142–143, for Saint-Marcoulf; Lebeurier, *B.E.C.*, xvi, 522, for Vernon.

[127] For loans made to Richard and John by the communes, see Stapleton, i, 209 (Pont Audemer), 247–248 (Bernai), 330 (Lisieux), 348 (Caen); cf. *Rot. Norm.*, p. 121; Giry, *Établissements*, i, 29–30.

[128] *Rot. Norm.*, p. 111 (Pont Audemer); Stapleton, i, 19 (Alençon).

[129] For burgage tenure, see Stapleton, i, 19 (marriage without permission of the king); *ibid.*, i, 16, 117, 168, 266, and ii, 334, 397, for payment of house-rents to the duke; Delisle, *Recueil des actes de Henri II, introduction*, pp. 345 ff., for house-rents in the Avranchin. See also Génestal, *La tenure en bourgage, passim*; Deck, *Eu*, pp. 74–75; *Rot. Chart., passim*; *Rot. Norm.*, p. 18; *Rot. de Oblatis*, p. 116; *Ordonnances des rois de France*, iv, 640.

[130] J. H. Ramsay, *A History of the Revenues of the Kings of England, 1066–1399* (Oxford, 1925), i, 227, thinks Normandy had greater revenues than England in 1195 because Caen could pay more than London; Stephenson, "Les aides des villes françaises," pp. 307, 308, thinks everything depended upon the strength of the lord despite charters and

Because of this men were willing to buy these documents and because of this, one is tempted to say solely for this reason, the dukes were willing to sell them.

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customs; *Rot. de Oblatis*, p. 66; *H.F.*, xxiv, *Querimoniae*, no. 253; *Cartulaire normand*, no. 167; *Rot. Litt. Pat.*, pp. 16b, 28b, 33b, 49b.

ALEXANDER III, THE *LICENTIA DOCENDI* AND THE RISE OF THE UNIVERSITIES

THE pontificate of Alexander III, 1159–1181, fell within the period which saw the transformation of certain centers of learning into Universities. The Universities as legal corporations did not appear until the beginning of the thirteenth century and later, but the conditions which caused their rise already existed and were revealing themselves in the twelfth century. To relate Alexander III with the movement which resulted in the constitution of the Universities is the purpose of this paper.

Papal legislation for church schools was inaugurated in the ninth century by Eugenius II and Leo IV. A Council at Rome, held under the former in 826, ordered that in all dioceses and parishes masters able to teach the liberal arts and sacred dogma should be appointed by the bishops.[1] Another Council, held by Leo IV at Rome in 853, provided that the office of teaching in episcopal schools should be given to clerks, and that parish churches should give elementary instruction in Holy Scripture and in the offices.[2] No new policy, but rather a renewal of papal interest after two centuries of silence is to be found in the decision of the Council of Rome of 1079, which again imposed on the bishops the obligation to establish schools in their churches.[3]

The twelfth century brought a change in the nature of papal legislation for the schools, a change necessitated by two movements; first, the fight against simony in the Church; secondly, the intellectual renaissance. Scholastic simony arose from the organization of teaching in the bishopric. In the early period, before the cathedral schools became important as centers of

[1] *M.G.H., Leges, sectio III*, ii, 2, p. 581, cap. xxxiii. On this canon, and also that of 853, cf. G. Manacorda, *Storia della scuola in Italia* (Milano, 1914), i, 1, pp. 60 ff.

[2] Mansi, *Sacrorum Conciliorum nova et amplissima Collectio*, ed. P. Labbé and G. Cossart (1759–98), xiv, 1014.

[3] Labbé-Mansi, xx, 509: "ut omnes episcopi artes litterarum in suis ecclesiis docere faciant." Manacorda, *op. cit.*, i, 1, p. 70. Only the title of this canon exists.

learning in the eleventh century, the bishop himself was sometimes the master who attracted students. Often an outsider, some wandering scholar, was called in to teach. The office of master acquired greater dignity when the number of students warranted the appointment of several teachers at the Cathedral or in the whole bishopric, and from that time the master of the schools tended to become the official who superintended the schools and granted the license to teach. He himself ceased to teach, or occasionally retained the teaching of theology, leaving instruction in grammar and dialectic to his subordinates, the ordinary masters. At the same time, that is, from the eleventh century on, it became customary to make this official a member of the cathedral chapter of canons; he was called chancellor, as at Paris,[4] or *scholasticus*, *magischola*, or *magister scholarum*.[5] Subject only to the cathedral chapter and bishop, he supervised the cathedral schools and sometimes those of the whole diocese.[6] His authority was necessary, at least generally in France, for the setting up of schools by scholars desiring to teach for profit.

When simony flourished everywhere it was natural that it should affect the office of the *magister scholarum*. If the teacher profited from his pupils, the master of the schools found it reasonable to demand his share by exacting a fee for granting the license to teach. This was of course simony, and as such came under the general condemnation of that evil by Gregory VII and his successors.[7] Scholastic simony itself, however, was not mentioned by Gregory VII, nor condemned officially until 1138. Conditions in the schools did not yet demand papal intervention.

[4] He was already master of the schools of Paris in 1120: H. Rashdall, *The Universities of Europe in the Middle Ages* (Oxford, 1895), i, 282, note 1.

[5] *Ibid.*, i, 280–282; I have in general followed Rashdall's description of the chancellor's office up to the time of Alexander III. On the organization of the cathedral chapter, cf. C. H. Haskins, *The Renaissance of the Twelfth Century* (Cambridge, 1927), pp. 47 ff.

[6] For exceptions see Rashdall, *op. cit.*, i, 284, note 1. To them may be added one made by Alexander III, who took from the master at Châlons jurisdiction over the schools of a monastery, giving it to the abbot; *Regesta pontificum romanorum*, ed. Jaffé and Loewenfeld, 2nd edition (Leipzig, 1885–88), no. 12096; cf. *post*, note 18. Another exception was at Paris, where the Chancellor of the Cathedral did not control the schools of Sainte-Geneviève; cf. H. Denifle, *Die Entstehung der Universitäten des Mittelalters bis 1400* (Berlin, 1885), pp. 662–665.

[7] Manacorda, *op. cit.*, i, pt. 1, cap. iii, emphasizes the question of simony and its feudal nature with reference to the schools.

The impulse to reform came from the new conditions created by the great intellectual movement of the twelfth century. The fame of an Abelard, the new dialectical method, and the revival of interest in all fields of learning [8] resulted in a great increase in the number of those who were eager to learn, and consequently of those who wished to teach.[9] As it became more profitable to teach a greater number of students willing to pay, the number of masters multiplied, making the office of master of schools or chancellor more lucrative. Scholastic simony became too glaring to escape attention from Rome as soon as complaints from the poorer masters or from unsuccessful applicants for the license reached the Pope.

The mere correction of the evil of simony itself was not the only aim of the papacy. There was also the sincere desire to make teaching free in some measure for poor students. At the very beginning of the twelfth century Geoffroy Babion, *scholasticus* at Angers, said in a sermon that no one should teach for money.[10] Alexander III himself expressed the theory of the Church in advocating gratuitous instruction,[11] and for poor students made at least the study of elementary theology free.[12] Since, however, as will be seen, Alexander did not effectively carry out the theory, the motive of free education did not have much weight in causing the papacy to interfere in the matter of the license; reform of offices in the Church and centralization of authority in Rome [13] were the main objectives of Alexander's policy.

[8] For the whole movement in learning see Haskins, *The Renaissance of the Twelfth Century.*

[9] Rashdall, *op. cit.*, i, 59 ff., 282 ff., 289 ff. This happened chiefly at Paris, but students were also more numerous elsewhere.

[10] B. Hauréau, *Notices et extraits de quelques manuscrits* (Paris, 1890–93), i, 86: "... sive qui docet sit membrum alterius in doctrina, nec doceat pro pecunia, sed pro doctrina fratrum." Chevalier, *Bio-bibliographie*, i, col. 1701: "Geoffrey Babion, écolatre d'Angers 1096–1110." Cf. Manacorda, i, pt. 2, cap. i, *passim.*

[11] "... quoniam, cum donum Dei sit scientia litterarum, liberum debet esse cuique talentum gratis cui voluerit erogare ... Non enim debet venale exponi, quod munere gratiae coelestis acquiritur: sed gratis debet omnibus exhiberi, ut impleatur quod scriptum est: Gratis accepistis, gratis date": Migne, *Patrologia Latina*, cc, col. 840. But here "gratis" refers to the relation of the master of schools with the teachers, not with the students themselves. Cf. the decretal *Quanto Gallicana* (*post*, p. 261).

[12] Decree of the Lateran Council, 1179; cf. *post*, note 27.

[13] Cf. A. Luchaire, *L'Université de Paris sous Philippe-Auguste* (Paris, 1899), p. 17.

Whatever the causes or the motives involved, Alexander actively undertook the destruction of scholastic simony. He had a precedent in the decree of the Council of London of 1138, which forbade the practice of selling the permission to teach, but which did not refer to learning as a necessary qualification for the applicant.[14] The energy with which Alexander took up the problem is evidence enough that this decree did not embarrass the masters of the schools. The first letter we have from the Pope against the sale of the license is addressed to the dean and chapter at Châlons-sur-Marne, who had been impeding the liberty of teaching by exactions and by threats of excommunication against masters who taught without their permission.[15] Alexander commanded the chapter to permit all clerks in the diocese and especially outside the walls of the city who wished to instruct others in "scholastic disciplines" to do so freely and without any hindrance.[16] This letter failed to stop the chapter in its customary practice, and another followed in 1171–1172 to the archbishop of Rheims, asking him personally to interfere.[17] In this instance the master of the schools of Châlons had been claiming jurisdiction over the schools of an abbot, refusing to permit any one to teach in them. Alexander would not allow the master to enjoy rights on the lands of the abbot which by a "wicked custom" he enjoyed over the schools in the city itself.[18] In no case was teaching to be subjected to simony: both the master and the abbot

[14] Labbé-Mansi, xxi, 514: "Sancimus praeterea, ut si magistri scholarum aliis scholas suas locaverint legendas pro pretio, ecclesiasticae vindictae subjaceant." Rashdall, *op. cit.*, i, 283, note 1, suggests "regendas" for "legendas."

[15] The date of the letter is 1166–1167; Jaffé-Loewenfeld, no. 11329; for the text, Migne, cc, 440.

[16] *Ibid.*, cc, 440: "... universitati vestrae ... mandamus quatenus clericos omnes, qui in episcopatu vestro, et praesertim extra muros civitatis aliis legere voluerint et eos scholasticis instruere disciplinis, id libere et sine omni contradictione efficere permittatis, nec super hoc molestare de caetero praesumatis, vel occasione ista aliquam sibi laesionem inferre." One may infer that the Pope wished to encourage more the teachers in the country schools than those of the cathedral school, "praesertim extra muros civitatis"; cf. *post*, note 19.

[17] Jaffé-Loewenfeld, no. 12096, already noted above to illustrate the theory of learning as a gift of God.

[18] Migne, cc, 840: "Dilectus filius noster abbas S. Petri de Montibus transmissa nobis relatione monstravit quod magister scholarum Catalaunensis Ecclesiae in terra jam dicti abbatis sibi scholarum magisterium vindicat et nullum per abbatem ibi regere scholas permittit ... Verum licet idem magister scholarum, illud sibi forte in civitate

were strictly forbidden to refuse permission to teach to any worthy and literate man wherever he might elect to open his school.[19] Not only, therefore, was scholastic simony condemned, but the territorial extent of the authority of the master of schools was restricted by papal intervention in the bishopric.

Local legislation for the schools is found in three other letters of Alexander III. The date (1159–1181) is indefinite for all of them, but because of their local application I shall analyse them before considering the more general provisions on the subject. Two letters are to Odo, chancellor of the cathedral chapter of Bourges. In the first Alexander confirmed to him the right to grant the license, provided he did not demand a fee from those wanting to teach nor refuse the license to those properly equipped by their learning; but the license should not be given to any one who was too ignorant to instruct others.[20] The letter is of further importance in indicating that the chancellor was beginning to seek papal confirmation for all the rights connected with his office, and was at least in some cases acquiescing in papal interference at the expense of his own and of the chapter's local autonomy. The second letter repeats in general the terms of the first one, adding, however, that the chancellor's permission was not necessary for a canon who wished to lecture to his fellow-canons or the clerks of the choir.[21]

ipsa obtentu pravae consuetudinis vindicet: hoc in terra abbatis non potest aliquatenus vindicare." Cf. Denifle, *op. cit.*, p. 665.

[19] Migne, cc, 840: ". . . mandamus, quatenus tam abbati, quam magistro scholarum praecipias, ne aliquem probum et litteratum virum regere scholas in civitate, vel suburbiis, ubi voluerit, aliqua ratione prohibeant, vel interdicere qualibet occasione praesumant." Here the cathedral school is affected as much as those in the country.

[20] Jaffé-Loewenfeld, no. 13779; S. Loewenfeld, *Epistolae Pontificum Romanorum ineditae* (Leipzig, 1885), p. 202, no. 338: ". . . cancellariam Bituricensem . . . devotioni tue auctoritate apostolica confirmamus et praesentis scripti patrocinio communimus. Ad hec auctoritate praesentium inhibemus, ne quis doctoris officium in villa Bituricensi, nisi a te prius licentia fuerit expetita, qualibet levitate audeat exercere, ita tamen ut ab his, qui docere vel legere voluerint, nullum omnino precium exigatur. Hoc quidem modo volumus provideri, ut nec idoneis licentia denegatur nec indoctis et incompositis fas sit ad docendos alios aspirare."

[21] Jaffé-Loewenfeld, no. 13780; Loewenfeld, *Epistolae*, no. 339: ". . . prohibemus, ne tu vel quilibet alius scolas Bituricenses audeat vendere nec alicui liceat sine licentia tua vel successorum tuorum, dummodo scole non vendantur, in urbe vel suburbiis legere, nisi forte aliquis canonicorum alicuius ecclesiae Bituricensis concanonicis suis aut clericis de choro ipsius ecclesiae tantum legere voluerit."

Excepting this minor limitation the chancellor's formal permission was necessary for the teacher in all schools of Bourges.

The last letter of local importance which I can bring forward concerns a bishopric in England. In it Alexander, hinting that the bishop of Winchester had been lax in preventing scholastic simony — *prohibeas attentius* — ordered the bishop to prohibit the selling of the license to teach in his parish.[22] There existed, one learns from this letter, a method by which a prospective teacher promised to make a gift to the head of the schools in return for the license, so that the accusation of simony might be avoided. Such promises the Pope could tolerate no more than the actual exactions made by the official and imposed on the applicant.

Local abuses of the magisterial office in France resulted in a more sweeping condemnation of scholastic simony. At least one case of these abuses, that at Châlons, illustrates the necessity of papal action; the others given above came perhaps after the general prohibition of 1170–1172. Another local example of the evil is found in the cathedral schools of Paris.[23] If documents are few to prove definite cases before 1170, it is nevertheless probable that the practice of selling the license to teach was widespread. Not Paris schools alone aroused the Pope to condemnation of simony. Indeed, the schools of Paris, frequented by wealthier students than those attending the less renowned cathedral schools, and offering more profit both to masters and

[22] Jaffé-Loewenfeld, no. 14157; *Corpus Iuris Canonici*, ed. Friedberg, 2nd ed. (Leipzig, 1879–1881), ii, *Decret. Greg. IX*, lib. v, tit. v, cap. ii: "Prohibeas attentius de cetero ne in parochia tua pro licentia docendi aliquos exigatur aliquid, aut etiam promittatur. Si quid vero postea solutum fuerit vel promissum, remitti promissum facias, et restitui, appellatione cessante solutum, sciens, quod scriptum est [Matth. 10]: *gratis accepistis, gratis date.* Sane, si quis occasione huius prohibitionis distulerit magistros in locis congruis instituere, tibi liceat . . . ibi aliorum instructioni praeficere viros providos, honestos et discretos."

As usual, the license should be given to any worthy man; by the bishop himself if it was not done by the master of the schools. But the freedom of teachers to establish schools anywhere, as at Châlons and Bourges, is limited, "in locis congruis."

For "aliquos" Jaffé-Loewenfeld, no. 14157, reads "ab aliquo."

[23] Vincentius Hispanus, writing 1210–1215, states, referring to the decretal *Quanto Gallicana*, "Hoc caput fuit impetratum contra cancellarium Parisiensem, qui a quolibet docente marcam unam exigebat." Denifle et Chatelain, *Chartularium Universitatis Parisiensis* (Paris, 1889), i, pars introd., no. 4, note.

chancellor, were less likely to attract attention to the evil of the sale of the teaching position than were the less prosperous episcopal schools.

Because of the prevalence, therefore, of scholastic simony particularly in France, Alexander tried to stop the evil by a decretal to the French bishops. The importance of the decretal requires its full quotation:

> Quanto Gallicana ecclesia majorum personarum scientia et honestate prefulget, et cautius nititur evitare que confundere videantur ecclesiasticam honestatem, tanto vehementiori dignos eos esse animadversione censemus, qui nomen magistri scolarum et dignitatem assumunt in ecclesiis vestris et sine certo pretio ecclesiasticis viris docendi alios licentiam non impendunt. Cum autem hec prava et enormis consuetudo a cupiditatis radice processerit, et decorem admodum ecclesiastice honestatis confundat, providendum vobis est et summopere satagendum, ut consuetudo ipsa de ecclesiis vestris penitus extirpetur, cum vobis precipue et specialiter ascribatur, si quid in ecclesiis eisdem laude dignum inveniatur vel reprehensione notandum. Nos quoque, qui licet immeriti dispensante clementia conditoris suprema fungimur potestate, tante cupiditatis et rapacitatis vitium nolentes inemendatum relinqui, fraternitati vestre per apostolica scripta mandamus, quatinus consuetudine ipsa de vestris ecclesiis extirpata sub anathematis interminatione hoc inhibere curetis ne qui dignitate illa, si dignitas dici potest, fungentes pro prestanda licentia docendi alios ab aliquo quidquam amodo exigere audeant vel extorquere; sed eis districte precipiatis, ut quicunque viri idonei et litterati voluerint regere studia litterarum, sine molestia et exactione qualibet scolas regere patiantur, ne scientia de cetero pretio videatur exponi, que singulis gratis debet impendi. Si qui vero hujusmodi prohibitionis vel precepti extiterint transgressores, eos auctoritate nostra et vestra officiis et dignitatibus spolietis. Porro si hoc iuxta mandatum nostrum corrigere neglexeritis, negligentiam vestram gravem habebimus et molestam et ad ea corrigenda manum extendere compellemur; ita quod si voluerint in hujus rapacitatis proposito persistere non valebunt.[24]

To all masters of schools in the churches of France it was strictly forbidden to demand payment of any kind for conferring the *licentia docendi*, which, moreover, should not be refused to any able and learned man desiring to teach in the schools under the supervision of the Church. The chancellor

[24] *Chartularium Univ. Paris.*, i, pars introd., no. 4.

or master of the schools thus retained the right to grant the license and to judge the fitness of the candidate.

In 1179 the Third Lateran Council renewed the prohibition against the sale of the *licentia docendi*, again making it clear that the license should not be withheld from any learned man who sought it. As in the *Quanto Gallicana*, any chancellor or master who violated the statute should be deprived of his benefices,[25] a punishment far more effective in preventing the sale of the license than the *ecclesiastica vindicta* threatened by the Council of London in 1138.[26] But did the decree of 1179 provide for all the teachers in the diocese? It seems from the context of Canon 18 of the Council, which begins by prescribing for every cathedral church a master whose special function should be to instruct the clerks of the church and poor students,[27] that the free license was here intended for the new master to be appointed, who was further aided by being provided with an adequate benefice. The purpose of the decree was to 'open the way to doctrine' to the poor; a free license and a benefice for the master were the practical means to that end. It was a special case caused by the papal decision to give poor students the opportunity to study theology, at least, at cathedral schools.[28] I do not mean to say, of course, that the Lateran decree weakened, by replacing, the prohibition made for all France in the decretal *Quanto Gallicana*. The latter, along with

[25] *Chartularium Univ. Paris.*, i, pars introd., no. 12: ". . . Pro licentia vero docendi nullus omnino pretium exigat, vel sub obtentu alicujus consuetudinis ab eis, qui docent, aliquid querat, nec docere quemquam, qui sit idoneus, petita licentia interdicat. Qui autem contra hoc venire presumpserit, ab ecclesiastico fiat beneficio alienus . . ."

[26] Cf. *ante*, note 14.

[27] *Chartularium Univ. Paris.*, i, pars introd., no. 12: (§18) "Quoniam ecclesia Dei et in his, que spectant ad subsidium corporis, et in iis, que ad profectum proveniunt animarum, indigentibus, sicut pia mater, providere tenetur; ne pauperibus, qui parentum opibus juvari non possunt, legendi et proficiendi opportunitas subtrahatur, per unamquamque cathedralem ecclesiam magistro, qui clericos ejusdem ecclesie et scholares pauperes gratis doceat, competens aliquod beneficium prebeatur, quo docentis necessitas sublevetur, et discentibus via pateat ad doctrinam. In aliis quoque restituatur ecclesiis seu monasteriis, si retroactis temporibus aliquid in eis ad hoc fuerit deputatum. Pro licentia . . . etc."

[28] Compare with the provision of the Lateran Council of 1215 for a master for the free teaching of grammar in cathedral and other churches able to support him, and a master to teach theology in metropolitan churches: *Chartularium Univ. Paris.*, i, part 1, no. 22. Encouragement of theological study as opposed to secular sciences is the purpose in 1179 and in 1215. Cf. Manacorda, *op. cit.*, i, 1, pp. 72 f.

the letters to particular bishoprics, remained in effect in France [29] for all other teachers subject to the master of the schools; it had legally abolished scholastic simony in the ecclesiastical educational system then existent. By the decree of 1179 the master of the schools should not sell the license to the new master for the poor in each cathedral church.[30]

A review of the provisions on the *licentia docendi* yields the following conclusions. As regards the chancellor himself and his control of education in the diocese, his old authority over the schools was limited in two respects: he could no longer accept as a gift, and could not demand, a fee for granting the *licentia docendi*; he must confer the license on any worthy and learned man seeking it. On the other hand, he retained, along with the office itself, important rights. He supervised all the schools of the diocese, except certain special ones as noted above, and except those that were purely lay in origin and character, notably in Italy; all ecclesiastical schools, that is, whether the regular cathedral and parochial schools or temporary ones set

[29] In Italy, as I shall point out again, ecclesiastical schools were not sufficiently important to be included in Alexander III's legislation on the license. England already had its special statute against simony, that of 1138. Alexander made no special provision for Italy.

[30] Neither Rashdall, *op. cit.*, i, 283, nor Manacorda, *op. cit.*, i, 1, p. 74, makes the distinction I have made between the letter to French bishops and the Lateran decree. If one separates the part of the Lateran decree dealing with the sale of the license from the foregoing part concerning a new master in each cathedral church, one is naturally led to apply it universally for all teachers in all schools subject to the chancellor.

My interpretation is strengthened by a gloss to the decretal of 1179 in the MS. Vat. lat. 1377, containing the Compilation of Decretals of Bernard of Pavia, fol. 82v.: "*Patet ex hoc capite et duobus sequentibus quod magister cui certum beneficium est constitutum pretium pro doctrina vel docendi licentia petere non debet.* Sed quid dicemus de magistris qui docent bononie vel parisius, numquid licet eis collectam vel pretium accipere, utique *cum non habeant beneficium ad hoc deputatum* . . ." The same gloss occurs in the MS. Borghes. lat. 264 (the folios are not numbered), containing likewise Bernard's Compilation; here the gloss is by "T[ancredus?]." The date of these glosses is apparently the second or third decade of the thirteenth century, since those of Vicentius Hispanus and Laurentius accompany them and since Tancred flourished at that time (cf. Schulte, *Die Geschichte der Quellen und Literatur des Canonischen Rechts* (Stuttgart, 1875), pp. 199 ff.). Moreover, Tancred has a gloss on the Bull *Super speculam* of 1219. Thus at this time glossators interpreted both provisions of the decretal *Quoniam ecclesia Dei* as referring to *beneficed* masters for poor students, and not to those without benefices at Bologna and Paris. Later canonists, however, particularly Raymond of Peñaforte and Geoffrey of Trani, state emphatically that under no circumstance shall a fee be involved in granting the license (MS. Vat. lat. 10270, Raymond of Peñaforte, *Summa de casibus*, lib. i, *de Magistris*, fol. 170; MS. Vat. lat. 10269, *Summa Gaufredi de Trano de titulis decretalium*, lib. v, *de Magistris*, fol. 134).

up by masters anywhere [31] in the diocese for profit from whatever students their personal renown for learning could attract. In all these schools he appointed the teachers by conferring the license. What is more important, the chancellor had the right to judge the fitness of the applicant, to grant him the license, without having to consult his master on his scholastic record; the masters did not yet always pass on the qualification of the candidate.[32] His power, then, was more than that of a mere superintendent of education,[33] more than that of an official who, because already existing, was used to represent papal authority in the schools by the simple act of ecclesiastical investiture. Yet he was no longer a local official of the cathedral chapter; the first step was taken by Alexander III in the development which in the first half of the thirteenth century was to make the chancellor a papal official, conferring the license to teach in the name of the Pope.[34] Alexander's interference in the matter of scholastic simony was the real beginning of active control of the teaching organization by the papacy, if only as a precedent.

Three types of schools were affected by the legislation of Alexander, cathedral, parochial, and schools of masters who lectured to students as the opportunity offered. All had one thing in common, an official, called chancellor or *magister scholarum*, who conferred the license to teach, and all to that extent were ecclesiastical. The cathedral and parish schools were regular in the sense of having been established by ecclesiastical authority; those of masters teaching elsewhere than in the regular episcopal schools were irregular in the sense of having been opened on the personal initiative of masters eager to

[31] Cf. *ante*, note 19, "in civitate, vel suburbiis, ubi voluerit"; note 21, "in urbe vel suburbiis"; note 22, "in locis congruis"; the letter to French bishops does not specify the place, but the inference is that a master could set up schools anywhere he wished. Paris is an example: the masters themselves had elected to teach near the cathedral under the control of the chancellor; the majority did not teach in the cathedral school, were indeed connected with it only by the common official, the chancellor. The University developed partly out of, but more in this connection with, the cathedral school, which, however, was the original nucleus.

[32] Cf. Denifle, *Die Entstehung der Universitäten*, p. 685, for Paris.

[33] A phrase used by Rashdall, *op. cit.*, i, 283; Rashdall does not sufficiently emphasize the importance of the right left to the chancellor to judge the fitness of the candidate for teaching.

[34] Cf. Denifle, *op. cit.*, p. 687, and note 102, the same page.

teach. Such masters, licensed by the chancellor, naturally chose to open their lecture rooms in places offering the advantages, material and intellectual, which attracted large numbers of students. Since no University arose from the mere expansion of a cathedral school proper into a *Studium Generale*, but rather from the concentration of a large number of masters and students where conditions favored them, it is precisely in relation to the independent masters that the legislation on the license to teach affected, if at all, the development of the university system. In that way alone, as will be explained, could Alexander's reform of the office of chancellor advance or retard the movement towards the formation of a corporation of masters or of students. His intention was not to encourage such a movement, which was probably not even seen for what it was; his activity against scholastic simony was rather a phase of the destruction of the feudal system in the Church than an effort to erect a new school system. But not the intention so much as what actually resulted from the papal policy is of interest here. What part, therefore, did Alexander's control of the chancellor actually play in the rise of the Universities? The answer depends upon the relation of the masters to ecclesiastical authority in each center of learning which became a University.

If no Universities as Corporations or Societies of Masters and Students yet existed in the twelfth century, the most famous ones of the Middle Ages, Bologna and Paris, were in the process of formation and were already international centers of learning. Montpellier and Oxford had their origin in the same century, Salerno even earlier. All of them developed spontaneously, without being founded by any authority, civil or ecclesiastical; but in the course of their constitution, with the exception of Salerno, they encountered papal intervention and control in varying degrees. For each school, the essential point to be considered in relation to the papacy is the admission to the guild of masters or professors, for the development of the society of masters is fundamental even at Bologna, where the student body developed into the University.[35]

[35] Cf. Haskins, *op. cit.*, p. 370.

At Bologna, however, there was no ecclesiastical authority which granted the license to teach in the twelfth century, although house rents paid by students and masters were an excuse for regulation by Clement III in 1189.[36] The masters or Doctors of Law conducted the examination of the candidates and conferred the license. Not until 1219 did Honorius III give to the Archdeacon the right to grant the license to teach in the name of the Church.[37] Alexander III's limitation of the chancellor's scholastic rights had therefore nothing to do with the formation of the guild of masters or professors at Bologna. But at least his regulation of the French chancellor-system of conferring the *licentia docendi* was a precedent for Honorius III in bringing the Law School of Bologna within the papal system for controlling education. Then, however, the University was already formed as a guild of Students. In the twelfth century, indeed, the schools of Bologna and generally of Italy were lay in character.[38]

As late as 1181 no definite organization of masters had risen in the School of Medicine at Montpellier, and neither the bishop of Maguelone, who claimed jurisdiction over the School, nor the masters possessed undisputedly the right of granting the license.[39] In fact, it was a lay lord, William VIII of Montpellier, who first provided for the liberty of teaching, saying that the Faculty of Medicine should not be monopolized by one person.[40] That he was loyal to the papacy, and was perhaps influenced by Alexander's legislation for the free license to any learned man seeking it, does not lessen the fact that his authority was not ecclesiastical, and that the prohibition did not come from the bishop of Maguelone or the Pope.[41] No ecclesiastical official, apparently, conferred the license, and the

[36] Friedberg, *Corpus Iuris Canonici*, ii, *Decret. Greg. IX*, lib. iii, tit. xviii, cap. i.

[37] Cf. Manacorda, *op. cit.*, p. 213; Rashdall, *op. cit.*, i, 206, note 1, and p. 223. Sarti and Fattorini, *De claris archigymnasii bononiensis professoribus*, new edition by Albicinius and Malagola (Bologna, 1888–96), ii, 14–15, epist. 3 and 4.

[38] Rashdall, *op. cit.*, i, 92 ff.; Denifle, *op. cit.*, p. 736.

[39] Rashdall, ii, 1, p. 118.

[40] *Les statuts et privilèges des universités françaises depuis leur fondation jusqu'en 1789*, ed. M. Fournier (Paris, 1890–94), ii, 3, no. 879.

[41] Luchaire, *op. cit.*, p. 8, and Rashdall, *op. cit.*, ii, 1, p. 114, point out the relation of William VIII with the papacy, but not the difference between their policies.

control of the chancellor or *magister scholarum* by Alexander III did not in the twelfth century apply to the situation at Montpellier. But by 1220 the bishop conferred the license, and by the Statutes of that year a chancellor was appointed to preside over the University.[42] Indirectly, perhaps, in influencing William VIII, Alexander's control of the chancellor in France, making the license free, was a factor at Montpellier in favoring the multiplication of the masters and consequently their organization; masters, however, had a habit of multiplying in spite of fees paid to an official appointing them, a habit which Paris will illustrate. The essential point which makes the provision of William VIII more favorable to the masters than papal decrees now or later, is the ruling that no one should have exclusive control of the Faculty of Medicine, and that any man, whatever his origin, who so desired could freely teach at Montpellier.[43] No official is named who should grant the license, or determine the fitness of the candidate. Alexander aimed at making papal authority felt in the schools, and left an ecclesiastical official in charge of them who, if he could not make his office a source of profit, retained a good measure of control over masters and students through his right to examine the candidate before he conferred the license. Surely William VIII of Montpellier pursued a far more liberal policy, for he imposed no limitation whatever on the masters. But his policy had no permanency, for in the next century the bishop, hence the

[42] Rashdall, *op. cit.*, ii, 1, p. 119; Fournier, ii, no. 882.

[43] Fournier, ii, no. 879: "Ego Guillelmus . . . proprio motu ductus et spontanea voluntate, fine bona et sine fraude, cum hac carta, ob bonum publicum et commune proficuum et utilitatem mei et tocius Montispessulani et universe terre mee, dono et firmitate perpetua concedo Domino Deo et vobis, meis probis viris Montispessulani, presentibus et futuris, et universo populo, quod ego, de cetero, prece aliqua vel precio seu sollicitatione alicujus persone, non dabo concessionem seu prerogativam aliquam alicui persone, quod unus solus tantummodo legat seu scolas regat in Montepessulano, in facultate fisice discipline, quia acerbum est nimium et contra fas et pium, uni soli dare et concedere monopolium in tam excellenti scientia; et quoniam equitas hoc fieri prohibent et justicia, uni soli in posterum nullatenus dabo. Et ideo mando, volo, laudo atque concedo in perpetuum, quod omnes homines, quicumque sint vel undecumque sint, sine aliqua interpellatione regant scolas de fisica in Montepessulano, qui regere scolas de fisica voluerint, et plenam facultatem, licentiam et potestatem inde eis stabilitate dono et concedo perpetua. . . ." If one compares this statute with the letters of Alexander III, one finds them entirely different in wording and in purpose. Alexander's influence on William, if any, is remote. If otherwise, why did not the lay ruler of Montpellier give the conferring of the license to an ecclesiastical official?

Church, acquired jurisdiction over the University, and it was then that Alexander's legislation had its effect in furnishing the precedent for papal control.[44]

As in the cases of Bologna and Montpellier, Oxford was not a cathedral school in its origin, which may be dated about 1167.[45] Until 1214 there was no chancellor, and the bishop of Lincoln had only general ecclesiastical supervision over the students. The masters in the early period taught without a license from a special official of the Church, a situation ended by papal regulation in the thirteenth century.[46] Again like Bologna and Montpellier, Oxford did not develop as a society of masters under the jurisdiction of an ecclesiastical official who conferred the license; that official was provided by the papacy after the essential formation of the masters into a guild, in order to establish papal authority over the University. Alexander III's scholastic legislation was not a factor in the rise of Bologna, Montpellier, and Oxford; nor, of course, in the rise or history of Salerno.[47]

Paris alone of the universities which arose in the twelfth century presented the conditions which called forth papal regulation of all episcopal schools. By the middle of the century a considerable number of masters was teaching in the neighborhood of the cathedral under the jurisdiction of the chancellor of Notre-Dame, who by custom collected fees for giving them the permission to teach, and could appoint whom he pleased. So long, possibly, as the candidate was willing to pay, the chancellor did not raise the question of fitness, nor prevent the master from teaching anywhere he wished in the parts of the city and diocese under the chancellor's supervision. When conditions were favorable, as certainly they were at this time in Paris, owing to the impetus given to the dialectical and theological movements by Abelard, and to the physical advantages of geographical position and the delights offered to students by the city, students and masters multiplied

[44] Cf. Rashdall, *op. cit.*, ii, 1, p. 120.
[45] *Ibid.*, ii, 2, p. 339.
[46] *Ibid.*, ii, 2, pp. 352 ff.
[47] *Ibid.*, i, chap. iii, for the history of Salerno.

in spite of the fee demanded by the chancellor, and by 1159 Paris was already a "city of teachers." [48] By the time of Alexander III, then, the germ of the university organization in the right of the chancellor to confer the license to teach, soon confirmed by the Pope, and in the still vaguely formed guild of masters, was in existence at Paris.[49]

The legal relation between the chancellor and the masters, or those applying for the degree of master, was changed by Alexander in that henceforth the chancellor was to confer the license on any learned man to teach anywhere he might choose, and was to have the right to judge the fitness of the candidate, but in no case was to demand any kind of payment for the license. What was the effect of these provisions on the development of the University of Paris?

Considering the right of the competent candidate to the license, at first one sees in this right an obvious advantage for the teachers if the chancellor ever wished seriously to limit their number, for that official would hardly dare often,[50] against express injunctions from Rome, withhold the license from a man known to be learned. But at Paris the chancellor had no reason for reducing the number of the masters, seeing that he perhaps continued, by special dispensation, to profit personally from a fee. This profit might have the effect of making any normal chancellor license as many teachers as possible. In any case, the Pope's desire that all properly qualified men should be allowed to teach was at best an ineffectual check on a possible attempt by the chancellor to limit the number of masters, for the chancellor still had the right to judge the fitness of the candidates for the license; he could even give the permission to teach without having consulted a master on the qualification of the candidate, and could refuse it to a candidate recommended

[48] Cf. Rashdall, *op. cit.*, i, 289; cf. John of Salisbury's description, *Chartularium Univ. Paris.*, i, pars introd., no. 19.

[49] Cf. Haskins, *op. cit.*, p. 382.

[50] As Fulco, master of the schools of Orléans, did in stubbornly refusing to permit a certain Master G. to teach even after receiving papal command to give the permission; Fulco asserted that Master G. was not suitable for teaching, and Stephen of Tournai, appointed by the Pope to examine the case, ordered the master of the schools either to obey, or to prove the unfitness of Master G. See the letter of Stephen to Fulco; Migne, ccxi, 404, dated 1177–1192.

by his master.[51] It was perhaps customary even before the pontificate of Alexander III for a master to approve of the candidate,[52] but as late as 1212 a chancellor was refusing the license, against the evidence of learning furnished by the masters, to those who would not pay the *precium*.[53] The customary right of the masters to examine and pass the candidate before the chancellor could confer the license was not legalized by the papacy until the same and the following years, when the masters were powerful enough, through having organized, to protest effectively against the actions of the chancellor.[54] What right of examination the masters had in the twelfth century they had by custom, not by special privilege from Alexander III. If anybody, it was the chancellor who could claim a papal privilege in the clause from the decretal *Quanto Gallicana*, "ut quicunque viri idonei et litterati voluerint regere studia litterarum,"[55] should he, like the master of the schools of Orleans, wish to turn it to his advantage, and thus try to limit the number of masters.

Did the provision, in specifying a certain amount of learning for the candidate, improve the quality of the teachers at Paris? If so, it was a benefit to the masters themselves in tending to increase their prestige, and a gain for education. But the evidence is that the result was not altogether in that direction, even if Alexander so intended it. Stephen of Tournai's letter to a Pope towards the end of the century, or at the beginning of the next, shows that, from his point of view, too great a number of young and insufficiently instructed masters was teaching at

[51] On the privileges of the chancellor at this time, see Denifle, *Universitäten*, pp. 685 ff.; *Chartularium Univ. Paris.*, i, pars introd., pp. xi–xv.

[52] Abelard was condemned by the Council of Soissons for having presumed to lecture without the approval of a master; C. Du Boulay, *Historia Universitatis parisiensis* . . . (Paris, 1665–73), ii, 66; cf. Rashdall, *op. cit.*, i, 285.

[53] *Chartularium Univ. Paris.*, i, pt. 1, no. 14.

[54] Cf. Denifle, *Chartularium Univ. Paris.*, i, pars introd., p. xii; *ibid.*, i, pt. 1, no. 16, the agreement between the chancellor and the masters; the chancellor gave up his practices of collecting fees, requiring an oath of fidelity, and keeping a prison for the students; he should not refuse the license to teach in Theology, in Civil or Canon Law, in Medicine, or in the Arts if the candidate had been passed by the masters of the faculty (the term "facultas" does not appear, however, until 1219 in letters of Honorius III, *ibid.*, i, pt. 1, nos. 29, 31). But if the chancellor, Johannes de Candelis, wished to give the license to any one, he could do so without the consent of the masters. The masters did not obtain absolute control of the license in 1213.

[55] *Ibid.*, i, pars introd., no. 4; cf. *ante*, p. 11.

Paris.[56] Innocent III, perhaps aroused to action by Stephen's complaint, realized the danger to the efficiency of teaching from a multitude of unformed masters, and limited the number of masters in the Faculty of Theology to eight,[57] a policy followed for the other Faculties in later years. The chancellor, then, was not too zealous in restricting the license to properly qualified applicants. Any other result could hardly be expected when the masters of each faculty did not themselves have the full right of examination and of making their decision valid over any opposition from the chancellor. It must be said, however, that it made little difference in improving the intellectual level of the masters as a whole in the twelfth century whether it was chancellor or masters who examined; the amount of learning required was at best comparatively small for the degree of Master of Arts, owing to the triumph of Dialectic over the Liberal Arts, and the sacrifice of the latter to the rush for degrees.[58] What is

[56] Denifle, *Chartularium Univ. Paris*, i, pars introd., no. 48: "... facultates quas liberales appellant amissa libertate pristina in tantam servitutem devocantur, ut comatuli adolescentes earum magisteria impudentes usurpent, et in cathedra seniorum sedeant imberbes, et qui nondum norunt esse discipuli laborant ut nominentur magistri...."

Cf. the following verses from the *Carmina Burana*, ed. J. A. Schmeller, 2nd ed. (Breslau, 1883), p. 40:

At nunc decennes pueri
decusso iugo liberi
se nunc magistros iactitant,
cęci cęcos prȩcipitant.

Cf. also E. du Méril, *Poésies populaires du moyen âge* (Paris, 1847), p. 153:

Jam fit magister artium
qui nescit quotas partium
de vero fundamento:
habere nomen appetit
rem vero nec curat nec scit,
examine contento.

Jam fiant baccalaurei
pro munere denarii
quam plures idiotae:
in artibus, ab aliis
egregiis scientiis
sunt bestiae promotae.

The date of this poem is uncertain, that of the verses from the *Carmina Burana* about the second half of the twelfth century. Cf. Rashdall, *op. cit.*, i, 291, who quotes these verses and suggests substituting "et" for "ab" in "ab aliis" (*ibid.*, note 1).

One must of course make full allowance for the exaggerations of such conservatives as John of Salisbury, Peter of Blois, and Stephen of Tournai. They often called that ignorance which was not their own ideal of learning; they opposed the triumph of dialectic over grammar and rhetoric, and its popularity at the expense of theology. Yet dialectic seems to have led to much shallow pedantry, to a skill in logic which needed less learning than other subjects for a degree. For a warning against accepting the moralists too literally, see F. M. Powicke, *Stephen Langton* (Oxford, 1928), pp. 31, 51–52.

[57] *Chartularium Univ. Paris.*, i, pt. 1, no. 5 (an. 1207). [58] Rashdall, *op. cit.*, i, 291.

important, the number of teachers increased, and number more than quality was essential in enabling the masters to form a *consortium*.[59] The lack of proper examination of the candidate for the degree and the low standard of requirements, together with the promise to the ambitious of ecclesiastical dignities and benefices, fostered the multiplication of the masters. In brief, Alexander's regulation of the chancellor-license system of education in France with respect to the qualification of learning did not affect, either by retarding or by hastening, the rise of the Society of Masters.

As for the provision against the practice of simony by the chancellor, this was an advantage for the teachers and an encouragement for their position. If enforced, it removed a serious obstacle to candidates who were poor, though meritorious. A direct result at Paris, one might expect, would be an increase in the number of masters and a more speedy organization into a guild. The decretal of 1170–1172 was not, however, strictly applied at Paris. Perhaps from the time when Abelard attracted a large number of students to Paris, and the teachers consequently became more numerous, simony made the office of chancellor profitable and became customary. The chancellor just before 1170 collected fees from the candidates for the license,[60] but how long he had been doing so it is impossible to say. In a center of learning as prosperous as that of Paris he found it difficult to give up a right which, if not exaggerated, no one could find abusive among teachers who themselves sold learning in that they were paid by their students.[61] When it happened that a famous scholar was chancellor, Alexander III perhaps found it the easier to understand that at least at Paris he should have some material reward for his office, and in 1174 Alexander apparently conceded to Peter Comestor, chancellor from about 1168 to 1178, the right to moderate fees for conferring the license to teach:

[59] Rashdall, *op. cit.*, i, 293; the term "consortium" appears first about 1170–1175.

[60] Cf. *ante*, note 23.

[61] Only the master in each cathedral church for poor students, provided by the Council of 1179, was enabled to dispense with fees from his pupils. In the thirteenth century Raymund de Peñaforte stated that a master could accept payment from wealthy students and foreigners; cf. Manacorda, *op. cit.*, i, 1, pp. 88 ff. Teaching was not free at Paris for the students; e.g., the words of Stephen of Tournai against the "secularium scolas et *venditores verborum*," *Chartularium Univ. Paris.*, i, pars introd., no. 42 (1178–92.)

Alexander . . . dilecto filio Petro tituli sancti Chrysogoni presbytero cardinali, apostolice sedis legato . . . Licet mandaverimus ut hi qui volunt docere nihil pro scolis regendis ab aliquo exigant, juxta illud: veni et audi: volentes tamen honestati et litterature magistri Petri, cancellarii Parisiensis, quantum salva honestate possumus, prompta benignitate deferre, quem speciali prerogativa diligimus et volumus honorare, discretioni tue mandamus quatinus, habito consilio cum venerabilibus nostris Willelmo Senonensi archiepiscopo, apostolice sedis legato, et H. Remensi archiepiscopo, et aliis dignis et honestis personis, super regimine scolarum Parisiensium, quod tibi visum fuerit, ita quod personam jam dicti Petri non excedat quod exinde feceris, circumspecta diligentia provideas atque disponas, eam cautelam et maturitatem adhibiturus, quod non videaris modum excedere, et illi qui scolas rexerint, non debeant immoderate gravari.[62]

In 1212, as we have seen,[63] a chancellor met opposition from the organized masters when he was trying to exact the fee for the *licentia docendi*; this time Innocent III definitely deprived the chancellor of this privilege, as well as of others.[64] Whether a chancellor between the years 1178, perhaps the last of Peter Comestor's chancellorship,[65] and 1212 was paid a fee by the

[62] *Chartularium Univ. Paris.*, i, pars introd., no. 8. The Pope's intention is not very clear. He had ordered that those who wished to teach should exact nothing from any one for conducting schools, "pro scolis regendis." Does "ab aliquo" refer to the students? If so the sentence would mean only that the masters should not accept fees from their students, though the phrase "pro scolis regendis" is difficult to reconcile with such a meaning. I find, however, no trace of a mandate of Alexander prohibiting students to pay fees to teachers, and the Third Lateran Council enabled only the poor students to escape the burden of fees in the cathedral schools. The Pope could hardly, therefore, be referring to such a prohibition in his words, "Licet mandaverimus, etc." To what decree does he refer? I think it is to the *Quanto Gallicana*, which, as seen above, prohibited the payment of fees for the license to teach. Now, while Peter Comestor, as Chancellor of the Cathedral of Paris, was also probably a teacher, it seems strange that he alone was permitted to collect fees from his students if other teachers were not allowed to do the same. But the teachers at Paris had not been forbidden their student-fees. The letter therefore seems to apply to Peter as Chancellor, not as a Master. For the rest, although it is not expressly stated that Peter could receive payment from candidates for the license, the contents of the letter seem to point that way: first, the reference to a previous decree on fees, probably the *Quanto Gallicana*; secondly, the expression of esteem for the learning of Peter Comestor; thirdly, the desire of the Pope that any reform of the schools should not derogate from the person and rights of the Chancellor; and fourthly, the admonition that by such a reformation of the schools and by such respect for the Chancellor's rights, the teachers were not to be immoderately oppressed, "et illi qui scolas rexerint, non debeant immoderate gravari." Cf. Rashdall, i, 283, note 2.

[63] *Chart. Univ. Paris.*, i, pt. 1, nos. 14 and 16; cf. *ante*, note 54.

[64] *Ibid.*, i, pt. 1, nos. 14 and 16.

[65] Cf. *ibid.*, i, pars introd., no. 8, note 1, for the date.

licentiate is uncertain.[66] An answer one way or the other is of small importance, for by 1175 there was a vague organization,[67] and the masters had already multiplied sufficiently at Paris to form a society and develop corporate grievances. They do not seem to have protested the special privilege given to Peter Comestor, and in 1212 they had more than the one complaint of fees for the license to make. The essentially formative years of the guild of masters and of the University, the middle decades of the twelfth century, from as early at least as 1140 to about 1178, coincided with the very period during which — excepting possibly four years, 1170–1174 — the chancellor of Notre-Dame received a payment from those who desired to teach. The fee was thus no obstacle to the growth of the University, above all when the masters themselves profited from teaching and could very well afford to pay for their position. If Alexander had effectively forbidden it at Paris the organization of the masters could hardly have been hastened; but precisely at Paris he did not strictly enforce the rule, and left to the chancellor most of his other old rights besides, including the important one of judging the fitness of the applicant for the license. Rather than encouraging and hastening the growth of the Society of Masters, Alexander, perhaps unintentionally, by his legislation on scholastic simony would have, other things being equal, retarded the development. But the movements of the century were more powerful than papal decrees, and the intellectual renaissance, whatever its causes, resulted in the concentration of masters and students at Paris in spite of fees for the license and lack of statutes for examinations. The masters were already a *de facto* corporation when they obtained positive privileges from the papacy in the thirteenth century.

It is possible now to consider the conclusions to which the scholastic legislation of Alexander III led Rashdall:[68] "The control of the Chancellor on the one hand, and the right of the

[66] Innocent III, in the letter of 1212 (*Chartularium Univ. Paris.*, i, pt. 1, no. 14), says that the abuses of the chancellor's office which he wishes to correct, did not exist when he was a student at Paris; one infers that the chancellor did not then exact a fee. On Innocent III as a student at Paris, cf. A. Luchaire, *Innocent III. Rome et l'Italie*, 3rd edition (Paris, 1917), p. 3.

[67] Cf. *ante*, note 59. [68] *Op. cit.*, i, 284.

competent teacher to a gratuitous license on the other, formed the basis of the French educational system. The control of the Chancellor distinguished it from the early Italian system: without the corresponding right, a University of Masters could never have grown up at all. The right to the license once established, there was nothing to prevent the multiplication of masters in connexion with any famous church-school." As we have seen, at Paris the chancellor indeed had control over the schools and masters; and the masters had the right to the license, but not a full right, since the chancellor passed on the fitness of the candidate. Moreover, the license was probably not gratuitous before 1178, possibly not before the beginning of the thirteenth century. The teachers in all ecclesiastical schools of France had the legal right after 1170–1172 to a free license; but at Paris the chancellor, or at least one chancellor, Peter Comestor, had, if my reading of Alexander's letter is correct, the equally legal right to demand his *precium*. Thus of these two elements, chancellor-control and the right of the teacher to a gratuitous license, which were the basis of the French educational system, only one, the former, was part of the system at Paris during the formative period of the Society of Masters. Against Rashdall's statement, therefore, that without the right to a gratuitous license "a University of Masters could never have grown up at all," stands the evidence that a University of Masters did grow up at Paris without the right to a free license, and also without the right of forcing the chancellor to accept their examination and of passing the candidate before the license was conferred. The masters of the various sciences were already a *de facto* University when in 1212 and later, supported by the papacy, they finally wrested these prerogatives from the chancellor. Even before Alexander III provided them with the half-privilege of obtaining the license if they were competent, they had multiplied at Paris; there was no serious obstacle to their multiplication. In a word, the teachers at Paris developed into an organization, into the University of Masters, without privileges, in spite of minor hindrances such as fees and the qualification of competency, as a result of the advantages offered by the city and of the intellec-

tual and guild movements of the twelfth century. In his regulation of the *licentia docendi* Alexander III did not directly influence, either adversely or favorably, the rise of the University.[69]

In the constitutional history of none of the centers of learning which developed into Universities at the end of the twelfth century, Bologna, Montpellier, Oxford, and Paris, did Alexander play an important part. His legislation had no application whatever at Bologna and Oxford, and only very indirectly, if at all, at Montpellier. It related to Paris only in so far as the schools were episcopal, that is, under the official of the cathedral chapter, the chancellor. Alexander did not, like the popes of the thirteenth century, have a university consciousness. His legislation aimed at stopping feudal practices in the Church, at centralizing papal authority. It purposed also to encourage learning by helping the teachers in episcopal schools, but not, in practice, those in great centers of learning. The prohibition of scholastic simony was enforced locally, at less important centers of learning, at Châlons, Bourges, or Winchester, but not at Paris. The importance of Alexander's control of the chancellor lies in its effect as a precedent on papal regulation of the Universities in the thirteenth century; the chancellor, obliged by Alexander to accept papal interference in his superintendency of the schools, became the representative of the papacy in the University, a development, however, which was completed

[69] Any direct influence on the growth of the masters into a University must be sought in Alexander's encouragement of student-canons by granting dispensations from the residence obligation, e.g., at Modena and York (cf. Jaffé-Loewenfeld, nos. 12853 and 13879); of several students at Paris, given papal protection or prebends (cf. *ibid.*, nos. 11040, 11519; *Chart. Univ. Paris.*, i, pars introd., no. 13); of certain masters teaching, e.g., Girardus Puella, to have a benefice so long as he was teaching (*ibid.*, no. 10); and, because of their learning or for political reasons, of certain masters by giving them benefices, e.g., David of London (cf. Jaffé-Loewenfeld, nos. 11716, 11718, 11917, 11915, 11916, 11918; Migne, cc, 643, 737; *Spicilegium Liberianum*, ed. F. Liverani (Florence, 1863), pp. 544, 545, 547; cf. Brooke, "The Register of Master David of London," in *Essays in History presented to R. Lane Poole* (Oxford, 1927). But there was yet no general papal provision for students, only local confirmation of chapter statutes, or the encouragement of individuals, who were favored for special reasons. There was no general provision for teachers, except for the master in each cathedral church for poor students; most of the teachers were not salaried by the Church, but were paid by their students. Yet already, and far more in the thirteenth century, this support by benefices of a few, and the hope of ecclesiastical dignities in the future, were beginning to attract more and more students to the great centers of learning.

after the Masters and Students had organized. The cathedral schools — with the sole and qualified exception of Paris, which, however, by 1160 was no longer one of the local type — did not become universities; those centers of learning which had their origin in the twelfth century and became Universities developed out of natural conditions of the time which were too strong to be greatly affected by the decrees of Alexander III.

GAINES POST

THE CANONIZATION OF OPPOSITION TO THE KING IN ANGEVIN ENGLAND

In 1215 the leader of the baronial army, Robert Fitzwalter, "styled himself piously and grandiloquently 'Marshal of the army of God and Holy Church.'" [1] While the human conceit that God fights on the side of the speaker is widespread and by no means confined to the thirteenth century, the basis for such an assertion is often worth seeking. In this case others who favored the anti-royal side believed the same. Thus the chronicler of Melrose stated,[2]

> It ought to be known that no one in his right mind ought to censure Simon (de Montfort) or call him by the name of traitor. For he was not a traitor but a most devoted adherent and faithful protector of the Church of God in England, a shield and defender of the kingdom of England.

In the Song of Lewes much the same feeling of divine approval of the anti-royal forces appears,[3]

> Victoris sollempnia sanctaeque coronae
> Reddunt testimonia super hoc agone;
> Cum dictos ecclesia sanctos honoravit,
> Milites victoria veros coronavit.
> Dei sapientia, regens totum mundum,
> Fecit mirabilia bellumque jocundum;
> Fortes fecit fugere, virosque virtutis
> In claustro se claudere, locis quoque tutis.

The whole poem betrays a spirit of "moderate and deeply moral and religious feeling" which was truly remarkable in the moment of triumph.[4] This attitude should probably be considered along with the noteworthy series of contemporary anti-royal leaders who were honored, partially at least, as saints.

[1] W. S. McKechnie, *Magna Carta* (Glasgow, 1914), p. 34.

[2] Quoted by J. O. Halliwell in the introduction to *The Chronicle of William de Rishanger* (London, 1840, Camden Society), p. xxvii.

[3] *The Political Songs of England, from the reign of John to that of Edward II*, ed. Thomas Wright (London, 1839, Camden Society), p. 73.

[4] *Ibid.*, p. 71.

The first and greatest of these saints was Thomas Becket. So great was his fame that it has tended to obscure the remarkable group of men who followed him. Hugh of Lincoln, Edmund Rich, and Thomas of Cantilupe were all rather ascetic and were actually enrolled among the saints. Stephen Langton, Robert Grosseteste, and Robert Winchelsey might well have been saints: they were good men as well as able scholars and political leaders. To their number may be added Simon de Montfort and Thomas of Lancaster, both laymen. These men provided much of the most effective leadership against the king, and their acts have become a part of every account of the constitutional history of the period. However, they also seem to have given a particular type of leadership to their followers which produced a remarkable *esprit de corps*. Part of this was probably based upon the success of these men, part upon their character: both had a strong appeal for the English people. Because it was apparently in large measure the political side of the careers of these men which led the English people to give them the honors of sainthood popularly, we may call them political saints.

The tremendous response of the English to the martyrdom of Thomas Becket was not wholly religious. The Archbishop was vain, rather overbearing, self-confident: in general, not a likable type of feudal prelate. His type usually attracted rather unfavorable comment in the late twelfth century. Even his uncomfortable undergarments and violent death, protecting the privileges of the Church, cannot explain all of his popularity. The political situation seems to have been partly responsible. By 1170 Henry II had reduced the baronage to order and was taking back many of the privileges which the Church had assumed in the troublous times of Stephen. The regular and effective collection of revenue made Henry's efficient administration distasteful to many who were already beginning to forget the evils of lax government. The rising boroughs found that Henry was slow to grant civic privileges. Many classes of Englishmen were thus willing if not actually anxious to devise some check upon the ever more powerful king. By his resistance and death Becket stayed the royal advance. The king's penance at the martyr's tomb was such as any English-

man could understand. In the person of Becket resistance to the king had been canonized.

Saint Thomas Becket had a singularly wide appeal. The Church did not forget that he had been Archbishop of Canterbury. In the time of Henry III, when the clergy threatened with excommunication those who would violate the charters of English liberties, they did it

> Auctoritate Dei patris omnipotentis filii et spiritus sancti et gloriose Dei genetricis Marie et bonorum Apostolorum Petri et Pauli omniumque Apostolorum beati Thome Archiepiscopi Martiris omniumque martirum beati Edwardi Regis Anglie omniumque confessorum atque virginum et omnium sanctorum . . .[5]

As Archbishop, also, he had been a feudal baron and had sat in court among the most powerful in the land. Since the baronial ideal was all too frequently a successful revolt, it is not surprising that the baronage should regard with favor a fellow-member who had defied the king so successfully as St. Thomas. Becket also possessed an appeal for the boroughs, for he was a Londoner by birth. Matthew Paris tells of the dream of a priest in 1243. The priest saw the martyr destroy the newly built walls of London and allege that these walls had been raised *in contumeliam et prejudicium Londoniensium*.[6] Thus in the veneration of St. Thomas Becket there existed an element of unity among three important classes of the kingdom. He remained the most popular English saint for centuries.

Next to Becket in time and apparently in popularity as a saint was Hugh of Avalon, Bishop of Lincoln. Genial of character, loving a joke, sincere in his ecclesiastical labor, and wide in his sympathies, many knew him as a friend. The Jews bewailed his passing as that of one who protected them during the crusading hysteria of 1189–1190. He stood up manfully for what he considered his rights against both Henry II and Richard. In the latter case he voiced the protest of a considerable portion of England, and the king backed down.[7] Like Becket, Hugh of Lincoln stands out as a successful rebel against

[5] *Statutes at Large*, ed. O. Ruffhead (London, 1763–65), i, 21.

[6] *Chronica Majora*, ed. H. R. Luard (London, 1872–83, Rolls Series), iv, 93–94.

[7] J. H. Round, *Feudal England* (London, 1895), pp. 528 ff.

royal power. It was fitting that he was canonized in 1220 in the year of the great translation ceremony of St. Thomas by a third member of this group, Stephen Langton.

With Stephen Langton have been associated the manœuvers which led to Magna Carta, one of the greatest of checks upon English royalty. Langton was an all-round character — scholar, rebel, administrator — and in all of these capacities he had notable success. It is needless to sketch his career, but it should be pointed out that he was eligible for canonization both on account of his character and of the miracles which followed his death.[8] He probably failed of canonization because King John had drawn him into a position of hostility to Innocent III. Langton continued the tradition of anti-royal leadership by the Archbishop of Canterbury.

In this he was followed by Edmund of Abingdon who was of a very ascetic and contemplative nature. Archbishop Edmund was hardly the man to act as a political leader in thirteenth-century England: he had not the vigor and practical skill of a Langton. Had he continued to act as a leader throughout his life, he might have endangered the tradition of effective leadership against the king on the part of the Archbishops. Fortunately he elected to retire to Pontigny as Becket had done. This act fulfilled a prophecy attributed to St. Thomas[9] and probably strengthened the belief of many in the righteousness of the anti-royal forces. Like Becket also, St. Edmund was entered into the calendar of saints rather quickly.[10] With St. Edmund may be considered Thomas Cantilupe, Bishop of Hereford. Among the most likable of English prelates, he shared in the political controversy of his time, generally against the king, until he finally withdrew to France. Although never an outstanding leader he bore a creditable name as a politician, and in his canonization he is at least partially a political saint.[11]

[8] See *Dictionary of National Biography* under his name. In this study "miracle" means not the actual accomplishment of some exceptional act but acceptance of the act as accomplished. This is an arbitrary definition but the qualification of each statement might prove to be an element of complication and confusion in a study where the important fact is the belief, rather than the act itself.

[9] Matthew Paris, *Chronica Majora*, iv, 74, 328.

[10] For a list of biographies see Thomas Hardy, *Descriptive Catalogue*, etc. (London, 1871), iii, 87–96.

[11] *Ibid.*, pp. 217–220.

A leader resembling Langton in many ways appeared in Robert Grosseteste, Bishop of Lincoln. Always a great scholar, he undertook the care of the vast diocese of Lincoln with such energy that he appeared terrific to clergy and laymen. Such a robust character could hardly have been other than a leader in the anti-royal forces of England. His resistance of papal claims upon the English Church apparently prevented his canonization, although it was favored by powerful parties.[12] His tomb in Lincoln Cathedral, near that of St. Hugh, became famous for the many miracles occurring there.[13]

In Rishanger's chronicle there is an interesting account of Grosseteste's relations with Simon de Montfort. The Bishop was tutor to de Montfort's children and correspondent with members of the family. Parallel to Becket's prophecy for Edmund of Abingdon comes Grosseteste's reputed prophecy for the Montforts. Putting his hand upon the head of de Montfort's oldest son, the Bishop is alleged to have said, according to the chronicler, Rishanger,[14] "O my dearest son, both you and your father will die upon the same day and in the same way for the cause of justice."

Simon de Montfort was the greatest of the anti-royal leaders and his administration of the government marked the height of anti-royal organization in the thirteenth century. His appealing personality and sincerity made him an almost ideal incarnation of anti-royal feeling. It is not surprising that writers liked to recall his close association with Bishop Grosseteste. He was hardly dead before miracles were performed at his tomb.[15] Rishanger tells of the terrible storm with intense lightning and darkness which came over England when de Montfort died.[16] So great was the veneration of de

[12] See *Dictionary of National Biography* under his name; H. Wharton, *Anglia Sacra* (London, 1691), ii, 343; *Letters from Northern Registers*, ed. J. Raine (London, 1873, Rolls Series), pp. 87, 182.

[13] *Annales Monastici*, ed. H. R. Luard (London, 1864–69, Rolls Series), i, 336, 344; *The Chronicle of William de Rishanger*, p. 7: *Flores Historiarum*, ed. H. R. Luard (London, 1890, Rolls Series), ii, 373, 393.

[14] *Op. cit.*, p. 7.

[15] *Chronica Monasterii de Melsa*, ed. T. Burton (London, 1866–68, Rolls Series), ii, 131. A very detailed list is printed as a supplement to Rishanger's chronicle.

[16] P. 47 and also pp. xxxiv–v.

Montfort that Henry III felt it necessary to forbid it and remind the people that the fallen hero was excommunicate at death. This passage from the Dictum de Kenilworth reads: [17]

> Rogantes humiliter tam dominum legatum quam dominum regem ut ipse dominus legatus sub districtione ecclesiastica prorsus inhibeat, ne Simon comes Leycestriae a quocunque pro sancto vel pro justo reputetur, cum in excommunicatione sit defunctus, sicut sancta tenet ecclesia; et mirablilia de eo vana et fatua ab aliquibus relata nullis unquam labiis proferantur; et dominus rex haec eadem sub poena corporali velit districte inhibere.

Prayers were written in his honor as well as a hymn imploring his aid.[18] In a political song of the period he was compared to Thomas Becket as we might expect: [19]

> Mès par sa mort, le cuens Mountfort conquist la victorie,
> Come ly martyr de Caunterbyr, finist sa vie;
> Ne voleit pas li bon Thomas qe perist sainte Eglise,
> Ly cuens auxi se combati, e morust sauntz feyntise.

In the reign of Edward I, Archbishop Winchelsey has some claim as a popular anti-royal leader. So successful was he that the king "could not wholly forgive the man who had brought on him the greatest humiliation of his life." [20] Since his name was offered with that of another anti-royal leader, Thomas of Lancaster, in 1327, by petition to Parliament as one for whom canonization should be sought, it may be assumed that miracles had occurred over his relics.[21] The leaders of the reign of Edward II seem to lack some of the finer qualities of character typical of the earlier ones. Upon the violent death of Thomas of Lancaster miracles occurred in profusion, even though the king forbade his veneration.[22] For him an office was composed in which the parallel to Becket in name and in manner of death was stressed: [23]

[17] *Select Charters*, etc., ed. W. Stubbs, 9th ed. by H. W. C. Davis (Oxford, 1921), p. 409.

[18] Wright, *Political Songs*, p. 124. [19] *Ibid.*, p. 125.

[20] W. Stubbs, *Constitutional History of England*, 4th ed. (Oxford, 1906), ii, 161.

[21] *Ibid.*, p. 387.

[22] *Flores Historiarum*, iii, 206, 213, 347: *Vita Ed. II auctori Malmesberiensi* in *Chronicles of the Reigns of Edward I and Edward II*, ed. W. Stubbs (London, 1882–83, Rolls Series), ii, 290.

[23] Wright, *op. cit.*, pp. 268 ff.

Gaude Thoma, ducum decus, lucerna Lancastriae,
Qui per necem imitaris Thomam Cantuariae;
Cujus caput conculcatur pacem ob ecclesiae,
Atque tuum detruncatur causa pacis Angliae;
Esto nobis pius tutor in omni discrimine.

A layman and excommunicate, suffering a political death which to a very large part of Europe must have seemed justified, he lacked practically every qualification to rank as a religious saint. His "martyrdom" was one of the factors favorable to the accession of Henry IV at the end of the century.

The English people had shown that they regarded a number of anti-royal leaders as saints largely on account of their political activity. Each of these men had combated one or more acts of the kings in which the latter seemed clearly in the wrong in the eyes of many Englishmen. Precedent after precedent had occurred in which the anti-royal politician appeared on the side of justice. For this reason the leaders probably came to represent justice and even God. The growth of this theory would be characteristically English in that it was based upon a series of concrete acts.

There existed to a certain extent in the minds of Englishmen a kind of communion of these saints. The alleged prophecies of Becket for Edmund and of Grosseteste for the de Montforts are instances of this. So are the comparisons of de Montfort and Lancaster to Becket. Certain other associations would be easy to recall. Four of these men had been Archbishops of Canterbury. Two had been Bishops of Lincoln and lay in its cathedral performing miracles. Langton had presided at the ceremonies of 1220 for both St. Thomas and St. Hugh. Winchelsey and Lancaster were recommended as subjects for canonization by a petition to Parliament. These saints were, of course, before the public as effective leaders against the king. Whatever their relation, both the feeling that the anti-royalists represented justice and the popular canonization of anti-royal leaders remain as facts in the thirteenth-century political situation. A number of questions arise as to their significance.

There are several indications that these facts combined to produce what seems almost a cult of political sainthood — a

consciousness that this group represented justice and that in their veneration justice was honored. Thus one account of the miracles of de Montfort mentions that "miracula fiunt pro Symone de Mounteforti et sociis suis," and later miracles occurred at the tombs of two knightly followers of Lancaster, who were killed at the same time as he: Henry de Montfort (note the name) and Henry Wylyngton.[24] This suggests that the English people were ready to grant the honors of political sainthood to even the humbler martyrs. This fact, together with the number of these saints and the regularity with which miracles occurred after the death of each, seems to show a fairly sustained emotional attitude. It would seem that an easy and almost unpunishable way of showing hostility to the king would be to invoke one of these saints. However, with respect to this as well as in other regards, the lists of miracles and other evidences of the attitude of the times need to be examined for their political implications.

Excellent evidence of the character of the appeal of one of these saints remains in the early catalogue of the miracles of Simon de Montfort.[25] This list includes miracles wrought upon many ranks of society. Over one hundred persons are named in such a way that it is difficult to define their social status. There were, however, fourteen knights and at least six ladies. The city of London is represented by three citizens and the professions by a merchant, a carpenter, and a miller.[26] Perhaps the most astonishing feature of the list is the number of religious persons who felt themselves benefited by the excommunicate de Montfort. Of the nearly forty clerks mentioned, the most prominent was an abbot, and there is a goodly number of monks, friars, and priests. Several of these had already visited the shrines of such orthodox saints as Becket and Robert of Knareborough. The clergy are of special importance because in their sermons they could easily give publicity to the saints by whose sanctity they were healed. In any event the clerks

[24] *The Chronicle of William de Rishanger*, p. 104. T. Rymer, *Foedera, conventiones, litterae*, etc., ed. A.Clarke, F. Holbrooke, J. Caley (London, 1816–69), ii, 536.

[25] Printed as a supplement to *The Chronicle of William de Rishanger*, pp. 67–109.

[26] London citizens, pp. 102–103: professions, pp. 67, 79.

were normally men of authority and in positions to encourage the veneration of those who they felt deserved veneration.

The statements of witnesses are also very suggestive. For instance, there is the case of Ralph of Thanet to which all the isle of Thanet is called to witness.[27] Of the recovery of a certain Alice the whole village of Burton Novereis is witness and of Roger Horsman the village of Bocland.[28] So also the incredulous or curious may learn from all of the parish of Evesham of the cure of Olive of Leyminster; from the abbot and monastery of Winchcombe, the recovery of the monk, William de Sarle; and from the village of Hide in Kent of the good fortune of its vicar, Roger.[29] Thus the good news spread so rapidly that it is no wonder people flocked to Evesham, enabling the monastery there to collect accounts of more than a hundred miracles in relatively few years. The shrines of these men were obviously centres of dissemination of interest. However, crowds even flocked to an image in St. Paul's, London, which was thought to resemble Thomas of Lancaster. [30]

Another question is in regard to the effect of political sainthood upon the conduct of the struggle against the king. The political saints led largely by their moral and political advantages. What violence occurred was mostly on the part of the king. Becket, de Montfort, and Lancaster all died in the course of the struggle. Of the kings, Edward II alone suffered violence, and his death aroused only a flicker of moral enthusiasm. Even when de Montfort and his followers were taking power from the king, they retained an exemplary and even courteous regard for the persons of the royal family. May we not believe that it was due in large part to the "moderate and deeply moral and religious feeling" inspired by the political saints that the constitutional struggles so seldom descended to the plane of a bitter civil war?

One result of political sainthood was that it offset the charge which was laid against the anti-royal forces in the thirteenth

[27] *Ibid.*, p. 68. [28] *Ibid.*, pp. 69 and 70 respectively.

[29] *Ibid.*, pp. 70, 72, and 72 respectively.

[30] *Flores Historiarum*, iii, 213. *Chroniques de London*, ed. G. J. Aungier (London, 1844, Camden Society), p. 46.

century — treason. Outside of the island the position of the English anti-royalists was seldom understood. The Curia mistrusted Langton and Grosseteste and excommunicated de Montfort and Lancaster. Louis IX, as arbiter between the king and his opponents, could see only the royal side. In France those who opposed the king were feudal rebels: in England they might be saints.

The canonization of hostility to the king had a more permanent effect than the immediate one of offsetting the charge of treason. It tended to neutralize the supernatural attributes of royalty. The king signed his charter, ". . ., by the grace of God, king of England, lord of Ireland, etc.," and the phrase "by the grace of God" had more than a hopeful significance. Coronation with its ceremonies of anointment and consecration by the bishops lent ecclesiastical approval to the ceremonies and gave the kingship a kind of indelible character, almost episcopal in nature. In England as in France the king began to exercise thaumaturgic powers and healed the sick by his touch.[31] These were powerful advantages, but the canonization of the rebels was more than a counterbalance. Saints ranked higher than kings in the Middle Ages.

The English royalty might possibly have overcome this advantage of the opposition by weighting the balance of saint-hood on their own side. This happened in France, as Professor Gerould has stated.[32]

> The Capetians might lack the energy and sagacity of the house of Anjou, for example, but they were more highly favored of Heaven than any other sovereigns in Europe: and in the long run they gained solid power from such imponderables as miraculous unction and the gift of healing. . . . Feeling is, after all, one of the great realities of politics in any age.
>
> Since the Capetian dynasty regarded itself, and was regarded, as carrying on the succession of Merovingian and Carlovingian rulers, it benefited also, without much doubt, from the extraordinary and complicated growth of the *chansons de geste* in the second half of the eleventh century. . . . It would be absurd to argue, of course, that the royal line of France fostered the growth of the Charlemagne legend in

[31] G. H. Gerould, "King Arthur and Politics," *Speculum*, ii, 43.
[32] *Ibid.*, p. 41.

order to strengthen its own position. . . . It is almost certain, however, that they profited from the popular fame into which the great emperor emerged.

The French were also aided by the prestige of Louis IX, the embodiment of justice, who quickly became St. Louis. Finally there was Joan of Arc who appeared as the incarnation of successful resistance to England. No doubt it was easy to believe in the divine right of a line of kings traced back to Clovis and Charlemagne, possessing a Louis IX, and aided miraculously by a Joan of Arc, and to feel in its steady increase of power a manifestation of divine approval.

In England somewhat the same development began. There were among the early Anglo-Saxon kings a number of confessors and martyrs, often with a strong local appeal, like Edmund or Oswald. None attained to the status of a country-wide hero. Professor Gerould has urged that the legends of King Arthur were encouraged as an aid to the Angevin dynasty by Geoffrey of Monmouth.[33] King Alfred was a great king — possibly too Anglo-Saxon to appeal to the ruling Normans. Edward the Confessor was a rather languid character. As late as 1245 Henry III paid his court poet to write of the lives of St. George and St. Edward.[34] In spite of these indications of attention to royal sainthood the cult never seems to have developed much strength. No legendary hero attained the place of Charlemagne in the imagination of the English, nor did any of the Angevins reach the saintly dimensions of Louis IX, and St. Charles I can hardly be compared to Joan of Arc.

The only Angevin candidates for political sainthood lived too long. It is possible that if Richard I had died before England had had to pay his ransom, or if Edward I had passed away by 1297, either one might have been enrolled among the saints and have raised by his death the position of royalty in England to somewhat the supernatural elevation of French royalty. Nevertheless, it would have been difficult for either of them. Against the background of Thomas Becket, Hugh of Lincoln, Stephen Langton, Edmund of Abingdon, Robert Grosseteste,

[33] *Ibid.*, pp. 45 ff.
[34] *Ibid.*, iii, 47, 56 item 2.

and Simon de Montfort, the character of these crusaders would not have stood out as did that of Louis IX against his opposition. French royalty contended largely with more strictly feudal foes whose operations possessed little moral value. Especially in their supernatural attributes, the difference between the anti-royal forces of England and France is tremendous.

A final question we may ask is of the relationship of political sainthood to the development of Parliament. Since some of the saints helped shape parliamentary action, it is possible that they gave this institution some prestige. Was Parliament looked upon as the successor of the saints, and its spirit regarded as a continuation of their confident assertion of rights against the king? Did the growth of Parliament and of other effective means of dealing with the king cause the decline of political sainthood in the fourteenth century? Or was this decline a result of a lack of faith? Certainly England produced no saints in this century.

For any subject in such an ecclesiastical age as the thirteenth century the ecclesiastical and supernatural implications deserve consideration. The fact of the popular canonization of several anti-royal leaders, with no parallel canonization of contemporary kings, is certainly significant whether or not it was actually part of a cult of political sainthood. This phenomenon was probably partly responsible for the dignified attitude of the anti-royalists. It certainly helped to neutralize the supernatural attributes of the English royalty by raising rebels to the status of saints and rebellion to the realm of sanctity. Its relationship to the rise of Parliament is uncertain and needs further study. However, the canonization of opposition to the king was one factor, possibly an important one, in elevating the anti-royal organization to a position of respectability and power in England.

JOSIAH C. RUSSELL

TAXATION AND REPRESENTATION IN THE MIDDLE AGES

HAVING, as a graduate student, been launched on a dissertation connected with English municipal history, I was counselled by my instructor — the scholar to whom this volume is presented — to begin my work with a review of parallel development on the Continent. This after a fashion I did. However, as I now know, I hardly succeeded in finding out what the books were talking about. It was not that the authors were obscure; individually they were clarity itself. It was only that they irremediably failed to agree. Particularly with regard to the taxation of the towns, which involved so many fundamental problems, the result of my reading was a growing bewilderment.

Since, for example, the commune of London could not be explained without reference to the communes of France, nor the English tallage apart from the Continental *taille*, leading writers on those subjects had naturally followed French authorities. But on examination the doctrines of the latter seemed hardly consistent either with the English evidence or with each other. And the conclusions of German scholars, based on materials from their archives, offered still another set of contradictions.

Accordingly, it was not till curiosity had led me to the documents that I began to understand what underlay the discussion. For one had only to place a few charters side by side to realize that they agreed much better than the learned commentaries which they had elicited. Whether from Languedoc, Hainaut, Cheshire, or Westphalia, they seemed to reflect much the same state of society and government. And eventually I became convinced that, when certain legalistic and nationalistic prejudices were set aside, a more sensible interpretation of the sources immediately suggested itself.

As the result of the somewhat scattering work that I have been able to do in the past dozen years, I do not flatter myself

that I have made any revolutionary discoveries. I am sure only that I have gradually given up a number of ideas learned from standard books; and I hope that to state these ideas, to summarize my changes of opinion, and to present the reasons which impelled them may not be without service toward further investigation.[1]

In the latter part of the eighteenth century educated Europeans began to show a livelier interest in mediaeval institutions. This interest is commonly described as part of the Romantic Movement, but it owed at least as much to the scientific curiosity of the scholar as to Rousseau's fad of the noble savage. It was Montesquieu who penned the first famous tribute to the British constitution, making the remark heard round the world, that this admirable system of government had originated in the forests of Germany.[2] For at least a century Englishmen had already been explaining their liberties as a heritage of the Middle Ages; and henceforth the enlightened bourgeoisie of the Continent found equal inspiration in the unbroken traditions of the Mother of Parliaments. So, in the great Declaration of 1789, the principle of no taxation without representation came to be enshrined alongside that of popular sovereignty — theories, both of them, essentially mediaeval.

The effect of the French Revolution, though eventually to discredit the cosmopolitanism of the philosophers, was by no

[1] The following study is in large part based upon five articles already published; but since the conclusions of the last two considerably modify views expressed in the three earlier, I have tried to bring all into harmony. For the sake of convenience, I subjoin a list of these publications, placing in brackets the abbreviations that will be used throughout the notes:

"The Aids of the English Boroughs," *English Historical Review*, xxxiv, 457 ff. [*E.H.R.*]

"Les aides des villes françaises aux XII^e^ et XIII^e^ siècles," *Le Moyen âge*, 2^e^ série, xxiv, 274 ff. [*M.A.*]

"La taille dans les villes d'Allemagne," *ibid.*, xxvi, 3 ff.

"The Origin and Nature of the *Taille*," *Revue belge de philologie et d'histoire*, v, 801 ff. [*R.B.*]

"The Seignorial Tallage in England," in *Mélanges d'histoire offerts à Henri Pirenne* (Brussels, 1927), ii, 465 ff. [*M.H.P.*]

[2] *L'esprit des lois*, 1748. See particularly bk. xi, ch. vi: "Si l'on veut lire l'admirable ouvrage de Tacite *sur les moeurs des Germains*, on verra que c'est d'eux que les Anglois ont tiré l'idée de leur gouvernement politique. Ce beaux système a été trouvé dans les bois."

means to diminish the reawakened interest in constitutional history. For the new nationalism of the nineteenth century tended from the beginning to make the politician also a historian; to give an intensely practical bearing to the study of representative institutions. Thus, as the Napoleonic Wars drew to a close, and men once more had the opportunity for leisurely research, a younger generation of students arose to test in learned books the half-imagined theses of their predecessors.

In 1818 Hallam published his *View of the State of Europe in the Middle Ages*, which included a justly famous discussion of English parliamentary origins. After a careful review of the documents, Hallam showed that the representative system had its true beginning under Edward I, who, he said, was forced by public opinion to abandon his arbitrary tallage and to recognize the right of the boroughs to grant their taxes freely. In other chapters he treated the origin of Continental assemblies, but through lack of accessible sources his discussion was necessarily meagre.[3] What Hallam was to the English-speaking world Guizot was to the French, for by his famous lectures he did much to popularize the study of parliamentary history on the Continent. Somewhat more prone than Hallam to vague generalization, he interpreted the evolution of representative government in very much the same way.[4] And in the meantime similar opinions had been set forth by Eichhorn regarding the diets of Germany. These assemblies, he held, were necessitated by the traditional rights of the clergy, nobles, and burghers. The towns, being exempt from forced *Beden*, or

[3] H. Hallam, *View of the State of Europe in the Middle Ages*, 11th ed. (London, 1855), iii, ch. viii, pt. iii. Hallam attributed the formal abolition of the tallage to the Confirmation of the Charters by Edward I, but even before that, he said, "it was a more prudent counsel to try the willingness of his people before he forced their reluctance. And the success of his innovation rendered it worth repetition." On Philip IV and the States General, *ibid.*, ch. ii, pt. ii: "Nor would I deny the influence of more generous principles; the example of neighbouring countries, the respect due to the progressive civilization and opulence of the towns, and the application of that ancient maxim of the northern monarchies, that whoever was elevated to the perfect dignity of a freeman acquired a claim to participate in the imposition of public tributes."

[4] M. Guizot, *Histoire des origines du gouvernement représentatif en Europe* (Paris, 1851) — the published form of lectures given in 1820–22. Leçons xii–xiii deal with the origin of the English House of Commons. For the French estates, see his *Histoire de la civilisation en France* (Paris, 1840), iv, leçons xv–xix.

taxes in place of military service, were at first negotiated with separately; then, for the sake of convenience, deputies were called to meet with the other privileged subjects of the *Landesherr*.[5]

Accordingly, by the middle of the nineteenth century, the doctrine had definitely appeared that, not only the English parliament, but similar councils all over Europe mainly owed their existence to their lords' need of funds; and that, in particular, the emergence and rapid development of the Third Estate was primarily due to the exemption of the towns from all but freely granted impositions. The theory, though combined with many decidedly romantic notions, was eminently reasonable, and it fitted what facts were then known concerning the fiscal institutions of the Middle Ages. It was only as a more critical analysis of the sources came to be made that certain investigators began to doubt the correctness of the original explanation.

Hallam's idea, well advertised in Germany by Gneist,[6] was re-examined by Riess in 1888 and found wanting. It was, he said, a mistake to suppose that Edward I had relinquished the ancient right to tallage which he, like other princes, enjoyed from his domain. As a matter of fact, the king continued to tax his towns at pleasure during the very period when the House of Commons was taking form. Deputies from the boroughs, as from the counties, were summoned by the king, not through fiscal necessity, but because they were useful in connection with the judicial and administrative work of parliament. The representation of the commons was the product rather of royal ambition than of national self-assertion.[7]

[5] K. F. Eichhorn, *Deutsche Staats- und Rechtsgeschichte*, 4th ed. (Göttingen, 1834–36), ii, 471 ff.; iii, 245 ff. The nobles and clergy, said Eichhorn, had to be asked for grants of *Steuer*. "In demselben Fall befand sich der Landesherr seinen Städten gegenüber, von welchen er nicht so leicht die Beisteuer erzwingen konnte, als von den Vogteipflichtigen auf dem platten Lande, wenn diese der Bitte kein Gehör geben wollten."

[6] R. Gneist, *Englische Verfassungsgeschichte* (Berlin, 1882), pp. 359 ff.

[7] L. Riess, "Der Ursprung des englischen Unterhauses," *Historische Zeitschrift*, Neue Folge, xxiv, 1 ff. In his argument that Edward I had the legal right to tallage his towns and other domains at pleasure, Riess was unquestionably right. But he admitted (pp. 27–28) that political considerations made advisable the request for a parliamentary grant. It is just these political considerations which I think his otherwise admirable study underestimated. Cf. Hallam's remarks, above, note 3.

However, at the time when Riess published his remarkably clear-sighted article, the ultra-nationalistic school of Freeman was in the hey-day of its glory. English opinion, taught to see in Gladstone's Reform Act a mere return to primitive democracy, was in no mood to appreciate unromantic historical criticism in a foreign periodical. So the mark theory of Maurer and Kemble long continued to flourish, and on both sides of the Atlantic champions of Anglo-Saxon liberty long continued to pour forth their eulogies.[8] Even the cautious Stubbs was to a considerable degree borne along by the enthusiasm of his contemporaries. Though holding back from the exuberance of Freeman, he still tended to interpret Edward I's policy as the result of nationalizing forces, the logical extension to the kingdom at large of principles long tried in village self-government. Since the arguments of Riess ran counter to his whole thesis, Stubbs passed them over in silence and, minimizing the arbitrary character of the tallage, still cited Hallam with approval.[9]

Nevertheless, since the opening of the new century, the tendency of historical criticism has been more and more to substitute sound research for the patriotic fancies of Freeman. Modern scholars, intent on correcting over-idealization in history, have drifted far even from Stubbs, and so have given proportionately greater attention to the doctrine of Riess.[10]

[8] G. L. von Maurer, *Einleitung zur Geschichte der Mark-, Hof-, Dorf-, und Stadtverfassung* (Munich, 1854), and other well known works published in the next seventeen years; J. M. Kemble, *The Saxons in England* (London, 1849); E. A. Freeman, *The Growth of the English Constitution* (London, 1872). An entertaining sketch of this idea in connection with the history of parliament will be found in H. J. Ford, *Representative Government* (New York, 1924) — a book which otherwise hardly touches the subject of the present study. For further discussion of the relation of the mark theory to the question of municipal origins, see a paper on the work of Pirenne and Below in the forthcoming *Case Book* of the Social Science Research Council.

[9] W. Stubbs, *Constitutional History of England* (Oxford, 1873), chs. xiii, xv. In later editions Stubbs failed to give adequate recognition to the work of Riess. However, in his own book he had not insisted upon a definite right of the Third Estate to grant voluntary taxes. He clearly brought out the fact that the representative system was the culmination of previous administrative practice, not only in fiscal matters, but in others as well.

[10] See particularly G. B. Adams, *Constitutional History of England* (New York, 1921), pp. 173 ff.; A. B. White, *The Making of the English Constitution*, 2nd ed. (New York, 1923), pp. 353 ff.; A. F. Pollard, *The Evolution of Parliament*, 2nd ed. (London, 1926); D. Pasquet, *Essai sur les origines de la Chambre des Communes* (Paris, 1914), tr. R. G. D. Laffan (Cambridge, 1925). In general, the first three of these authors emphasize judi-

Indeed, the reaction against the older school is now so pronounced that there is danger of its reaching another extreme. One who is quite willing to discount official altruism, and one who has no desire to resuscitate faith in the democratic mark, may still believe that taxation and representation were vitally connected in the thirteenth century. At any rate, before the matter can be settled one way or the other, prevalent ideas with regard to the fiscal obligations of the towns must be somewhat clarified.

The late Professor G. B. Adams, in the course of his admirable restatement of constitutional origins in England, was led by a clause in Magna Carta to pay some attention to the taxation of the mediaeval boroughs, particularly of London.[11] Holding the generally accepted view that the tallage was essentially servile, but knowing that it was regularly paid by burgesses who were not serfs, he sought to explain the anomaly as a result of the Norman Conquest. That event, he said, had made the towns domanial properties of the king and other lords, and so caused them to be treated as unfree communities.[12] Even London was legally tallageable at pleasure; for it was only temporarily under John that the city, given the rank of commune, was liable for feudal aids on fixed occasions.

This technical definition of commune Adams took from Luchaire,[13] but the application of it to the English evidence was part of his own rigidly legalistic system. If only communes

cial and administrative matters as of greater importance in producing representative government than taxation, but with their ideas on the latter subject I cannot altogether agree. To my mind, M. Pasquet has put the question in a fairer light. See particularly his criticism of Riess (pp. 219 ff.); and below, p. 310.

[11] *The Origin of the English Constitution*, 2nd ed. (New Haven, 1920), particularly pp. 385 ff.

[12] *Const. Hist.*, p. 171: "As belonging to a lord, the town formed a part of his domain lands and was therefore subject to the disabilities and exactions of the serf." In this doctrine Adams has been followed by Mr. A. B. White (*Eng. Const.*, pp. 111, 122). To Adams the feudal aid was a form of service; tallage a kind of rent, "a return upon capital invested" (*Origin of Eng. Const.*, p. 254; *Const. Hist.*, p. 190). Mr. Pollard (*Evolution of Parl.*, p. 7) seems to consider both as rent. For criticisms in my opinion justified, of Adams' technical distinction between tallage and aid, see W. S. McKechnie, *Magna Carta*, 2nd ed. (Glasgow, 1914), pp. 234 ff.; C. Petit-Dutaillis, *Studies and Notes Supplementary to Stubbs' Constitutional History*, tr. Rhodes (Manchester, 1908–14), i, 91 ff. See also *E.H.R.*, xxxiv, 473 ff.

[13] A. Luchaire, *Manuel des institutions françaises* (Paris, 1892), p. 413, quoted in *Origin of Eng. Const.*, p. 385.

had the right to consent to extraordinary taxation, and if even London failed to make good its claim to that status, how did it happen that within the century all the boroughs were allowed to vote subsidies in parliament? If, as Adams seemed to conclude,[14] the representation of the commons was not a matter of feudal law at all, how could he be sure that the claims of the Londoners were? The question of aid and tallage is in truth much less simple than he realized, for on analysis it is found to involve the fundamentals of feudalism, the manorial system, and urban development. It could not be settled by the mere dictum even of a great scholar like Luchaire.

As a matter of fact, French historians had by no means accepted the famous *Manuel* as the last word either on communes or on taxation. Luchaire's was but one — and not the happiest — of many arguments advanced to elucidate a very obscure subject. And for a long time these arguments had turned upon the meaning of feudal law. Augustin Thierry, taking from Guizot the task of more definitely explaining the representation of the *bonnes villes* in the estates, expressed the opinion that the privileges of the towns had made them an integral part of the feudal hierarchy, and had so entitled them to the free vote of all taxes.[15] This was an idea well calculated to appeal to a French audience. Feudalism was something that had grown up at home. If parliamentary government was but the logical extension of that system, it did not have to be regarded as essentially foreign.

The suggestion of Thierry, though supported by Boutaric,[16] was first consistently followed by Vuitry. In a noteworthy

[14] In the *Const. Hist.*, p. 172, the introduction of representative elements in parliament is described as marking a decline of feudal ideas; but compare p. 183, where the "feudal principle of an advance consent to an extraordinary tax" is said to have been extended to all forms of taxation. Mr. Pollard (*Evolution of Parl.*, p. 157) appeals to the feudal principle of suit to court in order to explain the representation of the towns.

[15] *Recueil des monuments inédits de l'histoire du Tiers État* (Paris, 1850), vol. i, introd., p. xxxv: "Par leurs privilèges . . . les villes étaient devenues . . . partie intégrante de la hiérarchie féodale, et la féodalité reconnaissait à tous ses membres le droit de consentir librement les impôts et les subsides."

[16] E. Boutaric, *Les premiers États Généraux* (Paris, 1860), p. 5. But in his other well-known books Boutaric developed somewhat contradictory ideas. For a fuller discussion of these authors, see *M.A.*, xxiv, 322 ff.

series of essays he elaborated the thesis that the royal *impôt* was only the feudal aid, somewhat extended as to the persons who paid it, the lands where it ran, and the occasions on which it was levied.[17] This theory, though vague, was at least intelligible. Its modification by Giry and his school brought little but confusion.[18] However, since being popularized by Luchaire, the notion has prevailed that only the commune was a member of the feudal hierarchy and so exempt from all impositions but the aids of the vassal. The consequence, as Adams later discovered, was to make the representation of the Third Estate inexplicable by feudal law.

Meanwhile Vuitry's system had been assailed from another quarter. Callery argued that the only taxes levied by the mediaeval kings of France were either obligatory aids on recognized occasions or commutations of owed military service. Therefore, he said, the calling of the estates must be attributed to that part of the feudal contract which forbade the lord to substitute money for troops without the vassal's consent — an arrangement that applied to *roturiers* as well as to noble tenants. On the destructive side the force of Callery's attack was at once recognized, but since his own proposed solution gained no favor, matters remained more obscure than ever.[19] The trouble was that no one had investigated the nature of the exactions to which the towns were liable in the twelfth and thirteenth centuries.

Now this very problem, so unaccountably neglected in France, had long attracted the attention of scholars in Germany. As early as 1878 it was treated with extraordinary

[17] A. Vuitry, *Études sur le régime financier de la France* (Paris, 1870), p. 532; Nouvelle série (Paris, 1883), i, 144, 150 ff.; ii, 3–4.

[18] A. Giry, *Les établissements de Rouen* (Paris, 1883), i, 440; J. Flammermont, *Histoire des institutions municipales de Senlis* (Paris, 1881), pp. 97 ff., and *De concessu legis et auxilii* (Paris, 1883), pp. 115 ff.; Luchaire, *Les communes françaises* (Paris, 1890). See above, note 13.

[19] Callery, *Histoire du pouvoir royal d'imposer* (Paris, 1879), and *Histoire des États Généraux* (Paris, 1881). For various reactions to Callery's doctrine, see *M.A.*, xxiv, 324–325. The most notable amendment in subsequent years was made by Borrelli de Serres, *Recherches sur divers services publics* (Paris, 1895), i, 515 ff.: that the representation of the *bonnes villes* was due only to the necessity of discussion for determining the extent of their contributions. But his thesis is based on very dubious interpretation of the charters (*M.A.*, xxiv, 310).

thoroughness by the distinguished Karl Zeumer,[20] and from 1885 to 1920 it continued to be one of the chief concerns of another prominent mediaevalist, the late Professor Georg von Below.[21] Through their efforts, the work of the student wishing to compare the taxes of mediaeval Germany with those of France and England has been enormously facilitated.

Zeumer showed, first of all, that the *Bede* commonly paid by townsmen was originally the same exaction as that paid by peasants. Furthermore, he proved that the *Bede* was sharply distinguished from rent and was not, as Eichhorn and others had thought, a substitute for military service. It had for its base nothing more specific than the irresistible demand of a powerful person. It was essentially a tax. Originating in the requests (*Bitten* = *Beden*) of lords for voluntary assistance, and long considered unjustifiable, the imposition was gradually legalized and by the end of the twelfth century had become the recognized perquisite of the *Landesherr* or other holder of public authority. As such it appeared in municipal charters, by which it was commonly restricted to fixed sums, or occasionally abolished. And this practice in turn necessitated the special treatment accorded the towns when later princes tried to levy more general subsidies and called diets to grant them.[22]

To Zeumer's general argument Georg von Below gave enthusiastic support. Working back from the legal attributes of the fourteenth-century *Landesherr*, he had become independently convinced that the *Bede* was a public impost; in fact it was the liability for it of the burgher estate that led him to consider the nature of the mediaeval town, and so to write his epoch-making articles on municipal origins in Germany. But in one respect he took sharp exception to Zeumer: the *Bede*, he insisted, had never been other than *landesherrschaftlich*. From the beginning it was a *Zwangsbeitrag* levied by the Carolingian count or his legal representative. If in time the exaction came into the

[20] K. Zeumer, *Die deutschen Städtesteuern*, in G. Schmoller, *Staats- und Socialwissenschaftliche Forschungen* (Leipzig, 1878), vol. i.

[21] G. von Below, *Die landständische Verfassung in Jülich und Berg* (Düsseldorf, 1885-91); *Probleme der Wirtschaftsgeschichte* (Tübingen, 1920), pp. 622 ff.

[22] For further discussion of Zeumer's argument, together with a criticism of his main points, see *M.A.*, xxvi, 21 ff., 36 ff.

hands of private lords, that was a later development, the result of alienation. And to all objections raised against him Below was able to bring such cogent reasoning that to-day the opposition has virtually collapsed. With him learned opinion in Germany sees in the *Bede* "die älteste deutsche Steuer." [23]

Now any one who first encounters this ancient German tax in the writing of Below and his pupils will not be likely to recognize it as the *taille* of France. And yet the most cursory examination of a few pertinent charters will at once convince him of the identification, for in frontier regions, where Teutonic and Romance dialects met, *petitio* (the Latin translation of *Bede*) appears as the perfect synonym of *tallia*.[24] There, at least, what one was the other was. If the *taille* was a servile obligation, so was the *Bede*; if the *Bede* was a public tax, so was the *taille*. Could any example better prove the complete absurdity of offering a purely nationalistic explanation for an institution common to both sections of the Frankish Empire?

The mere discovery of such a glaring contradiction challenged reconciliation; and this I have made some attempt to effect, principally by a study of documents emanating from the Franco-German borderlands. But the fact that conclusions drawn from that evidence agree so remarkably with constitutional principles in England will perhaps excuse the broadening of my generalizations. They are presented tentatively. For though it seems to me that they must be sound, how sound they are can only be determined by much more research than I shall ever accomplish.

In the first place, there is the quarrel over public and private authority, which, without definition of terms, gets nowhere. Classification of rights in the Middle Ages based solely on juristic analysis is, in my opinion, historically worthless, for the men of that time knew nothing of it. On the other hand, in so far as the terms 'public' and 'private' are used to designate historical categories, to indicate whether or not a given power

[23] Heading of ch. ix in the *Probleme der Wirtschaftsgeschichte*. As will appear below, I have been led somewhat to modify the view expressed in *M.A.*, xxvi, 37 ff.

[24] *M.A.*, xxvi, 7–12, 20, 23.

was originally regalian, the distinction has its value, and was not altogether foreign to mediaeval thought. In eleventh-century Germany, where feudalization had only begun, such differentiation would indeed be clearer than in contemporary France, where prevalent custom allowed various political rights to the vassal. But even there did any one suppose that merely to hold land was to possess governmental authority? Countless charters are proof to the contrary. To the best of my knowledge, the military, judicial, and fiscal powers of the baron or immunist were always recognized as coming directly or indirectly from the king.[25]

So, when French writers classify a right as *seigneurial*, they do not, or should not, deny its public character; and Below was not justified in sneering at the usage,[26] for the distinction between *Landesherr* and *Grundherr* can hardly be applied to a thoroughly feudalized country. From this point of view, also, the *régime seigneurial*, or manorial system, cannot rightly be described as wholly private, for it included many elements derived neither from landlordship nor slavery. It is my impression that, compared with economic unfreedom, legal unfreedom was of secondary account. The law of serfdom was derived from the law of slavery, but it was not that which brought the mass of the people under the will of the few. The average peasant needed the protection of a great lord in order to live, and through that necessity became subject to his jurisdiction. What came to be held marks of servitude can all be found in an early age as territorial obligations. At the same time, however, bondage did exist, and legally carried with it absolute rightlessness as against the lord. The payments and services that he exacted from the free peasant as political superior he might take from his serf as proprietary master. On which side in a given case the institution was older it is at present impossible to say.[27] Practically, the technicalities of legal

[25] *R.B.*, v, 856 ff.; *M.H.P.*, ii, 473 ff.

[26] *Probleme der Wirtschaftsgeschichte*, p. 661, note.

[27] In spite of confident generalizations in many books, the subject of serfdom in the earlier Middle Ages is still very obscure. It is to be hoped that M. Marc Bloch will continue his studies in this connection; see particularly his "Transformations du servage," in *Mélanges d'histoire du moyen âge offerts à M. Ferdinand Lot* (Paris, 1925). With

status must have mattered little in an age when the average man was helpless to improve his condition and the manorial authority of the lord was distinctly arbitrary.

Whatever may be made of other peasant obligations, there can be no doubt as to the character of the early tallage, or *taille*. In the sources where it is first mentioned it appears as an exaction levied by the territorial lord upon the rustics under his jurisdiction. Like the right to hold a court or to levy military service, it was a political perquisite, in strict theory derived ultimately from the crown. Nevertheless, it was not and never had been a royal tax, Roman or Frankish. And we have no sure evidence that, as Below believed, it had ever been the count's monopoly. In eleventh-century France, at any rate, it certainly was not, for neither the count of Flanders nor the duke of Normandy, the two greatest princes of the West, had exclusive enjoyment of it. Rather it appears, like the manorial jurisdiction that it accompanied, to have been a vague power which the feudalization of society had widely dispersed before the great principalities took shape.[28]

In proportion as Germany remained more thoroughly Carolingian than France, such public rights as potentially went with

M. Bloch I believe that the *taille* was not purely servile, but I am not so sure as he that *mainmorte* and *chevage* were so: see the examples cited in *R.B.*, v, 832 ff., and F. Lot, *L'impôt foncier et la capitation personelle sous le Bas-Empire et à l'époque franque* (Paris, 1928), pp. 120 ff.

[28] Below was inclined to believe that the *Bede* originated in the West Frankish kingdom and spread to the east (*Probleme der Wirtschaftsgeschichte*, p. 661), but his confidence that the exaction was invented by the count seems to have been based on juristic deduction, rather than actual evidence. When the miserable sources of the ninth and tenth centuries give us any information on the subject, they show all sorts of powerful men collecting forced gifts (*R.B.*, v, 867 ff.). Similar exactions were not unknown in Anglo-Saxon England (*M.H.P.*, ii, 470, note 1). The clearest proof that the tallage was not a princely monopoly in the eleventh century lies in the fact that the feudal tenures established in England by William the Conqueror permitted each baron to tallage his manorial dependents (*M.H.P.*, ii, 471–474). Another proof may be found in the custom of the feudal aid (*R.B.*, v, 860). In his most recent work (see the previous note) M. Lot has considered the origin of the *taille* in connection with his admirable discussion of Frankish taxation. On the latter subject I of course yield to his superior knowledge. Furthermore, so far as the *taille* is concerned, I admit that his criticism (pp. 131 ff.) of a few statements that I hazarded in 1923, before making an independent examination of the sources, is quite justified. However, the article in *M.A.*, xxvi, was specifically stated to be amended by that in *R.B.*, v (see p. 803, note 1). If M. Lot will re-read the latter, I am confident that he will find its conclusions in no essential different from his own.

the comital office would tend to retain their more primitive centralization.[29] However, even there political disintegration was at most only delayed, and eventually the *Bede* ended as it had in France. On the whole, I am inclined to think that Below underestimated the extent to which such fiscal authority had been feudalized in twelfth-century Germany. Perhaps, if he had not followed Zeumer in restricting his research to thoroughly Teutonic documents, he would not have been so positive that most local lords had no right to tallage their dependents.[30] And in one other respect, I believe, Below's doctrine stands in need of amendment. Although many French authorities have unquestionably gone wrong in pronouncing the tallage essentially servile, it is equally incorrect to affirm that no such thing as the servile tallage existed.[31] How old it was in the twelfth century, when we first hear of it, is doubtful, but it lasted long after the tallage on freemen had lost its arbitrary character. Moreover, this fact greatly helps us to understand the opinion that men had of it. For if the tallage was as ancient and honorable as Below would have us believe, why was it so universally detested? With this question we are logically brought to the subject of emancipation.

The breakdown of the social system in which the tallage had developed began with the economic changes of the eleventh century. By 1100 rural and urban colonization were already well under way, and one immediate result was to place a new premium on personal liberty. The man who was legally free to move found it increasingly easy to improve his condition. Nor could serfs always be traced and brought back. For the first time in centuries opportunities for better livelihood became common, and as fast as they arose, men came from somewhere to take them. To meet the demands of a migratory population

[29] See J. W. Thompson, *Feudal Germany* (New York, 1928), chs. ix–x.

[30] In this respect municipal charters show the prevalence of identical customs on both sides of the frontier; see particularly the examples cited in *M.A.*, xxvi, 39 ff. On the failure of Zeumer and Below to appreciate the significance of extraordinary *Beden*, *ibid.*, pp. 24, 30.

[31] It is, of course, impossible to explain the origin of the servile tallage apart from that of serfdom. In the eleventh century the serf could be tallaged at pleasure by his lord so long as he was kept at home; when, however, he entered the jurisdiction of another lord, his body-master could collect only what the latter permitted (*R.B.*, v, 826 ff., 861 ff.).

and to attract further settlers, lords began to vie with one another in guaranteeing privileged status to residents within their jurisdiction. Little by little the system was developed and extended, so that in the course of two hundred years arbitrary seignorial obligations had already disappeared throughout the more progressive regions of the West. Henceforth burdens that had once fallen upon the bulk of the rustic population tended to be characteristic only of serfs whom the emancipation movement left untouched.[32] Between them and even the humblest bourgeois lay an ever widening gulf.

Familiar as is the subject of urban liberties, one of its fundamentals still needs emphasis — the public basis of the town's establishment. Mere ownership of the soil did not suffice for creating a privileged municipality: that necessitated the tenure of immunities which could be shared with a group of subjects. The lord of a town was the person who chartered it. As he chartered it, so it was said to stand on his domain; for that expression, in the political sense, meant the territory under his immediate jurisdiction.[33] And if under feudal custom the ordinary baron possessed the legal faculty of conferring bourgeois status, that is only added testimony to prove the public nature of his authority. Thus the typical emancipation charter to a community was not the act of a master freeing his bondmen; it was a grant of territorial franchise. It customarily restricted the exercise of the political rights — judicial, military, and fiscal — which the grantor held within the locality, and also guaranteed to all settlers freedom from the exactions of their previous lords. Moreover, this liberty, except for specified reservations, applied even to immigrant serfs. Everywhere the precedence of territorial over personal rights was advertised by the famous law of a year and a day.

In this way, and only in this way, can the taxation of the mediaeval town be satisfactorily explained. The urban settle-

[32] On this and what follows, see *R.B.*, v, 826 ff., 842 ff., 863 ff.

[33] Thus the well-known argument of Maitland (*Domesday Book and Beyond*, pp. 176 ff.) concerning the classification of the boroughs in Domesday is, on analysis, found to be based on misapprehension. Mere ownership of the soil had nothing to do with the case. Following Maitland, I was led to erroneous conclusions in *E.H.R.*, xxxiv, 472 ff. For the views in this respect of G. B. Adams, see above, note 12.

ment, because it was located within a lord's territorial immunity, was subject, unless he chose to relax it, to his exclusive and unrestrained power of tallage. But as a matter of fact, the exaction, like arbitrary *corvées* and unlimited military service, was found incompatible with the interests both of the bourgeois and of their patron. So it tended to disappear. The most highly privileged towns gained complete exemption, often with the guarantee that they should be liable only for freely granted subsidies. Occasionally, though by no means regularly, special aids were reserved on definite occasions, the famous three cases of northern French custom or others. However, no separate treatment in this respect was given towns called *communes*: the argument of Giry and Luchaire, in which Adams placed such confidence, was without foundation.[34]

In Germany, except for the great cities of the Rhine valley, municipal development was much more backward than in France, and most communities at the opening of the thirteenth century were still subject to arbitrary tallage. Even when that was ended, grants of complete exemption were rare. The average German town, like a French village, secured only the restriction of its *Bede* to a fixed annual sum.[35]

After 1066 English custom, as was to be expected, followed the French. Domesday Book reveals the tallage as a Norman importation intimately connected with manorial organization. It was not servile, but was levied by the baron upon all rustics, notably sokemen, subject to his jurisdiction. It was apparently an annual imposition quite distinct from ordinary rents, and a heavy one. This tallage, as is well known, long continued to be a prominent feature of seignorial exploitation, but by the thirteenth century it generally came to be only a fixed charge for the free peasant, and so in its unrestricted form a mark of servile status.[36]

So far as the boroughs were concerned, the chief peculiarity of their history was their intimate connection with the mon-

[34] *M.A.*, xxiv, 10, note 8. [35] *M.A.*, xxvi, 20 ff.

[36] *M.H.P.*, ii, 465 ff., superseding what I wrote in *E.H.R.*, xxxiv, 472 ff., when believing the tallage essentially servile.

archy, for the dominant position of the crown in England before and after the Norman Conquest resulted in keeping most of the towns on the royal domain. However, there were notable exceptions, and in the twelfth century lay and ecclesiastical nobles, following Continental models, founded many new communities. In the charters of these seignorial boroughs tallage sometimes appears, being limited according to French precedent. But the royal boroughs had their own custom. There the Norman king seems to have been satisfied with the perquisites enjoyed by his Saxon predecessors. At least, he introduced no annual tallage comparable to that established by his vassals on their estates. Very likely the reason was that in England the king found ready-made a tax far superior to any enjoyed by his princely contemporaries. The royal geld, originally instituted to buy off the Danes, had become under Cnut a regular impost levied to maintain an army and navy, and even after 1066 it was never feudalized. So, unless specially exempted, all lands in England, whether held by king or by baron, were supposed to be taxed. With a handsome revenue thus largely supplied from the domains of others, the Conqueror could well afford to spare his own the burden of additional exactions.

For a time no essential change was made in the ancient arrangements affecting the boroughs. Except when they had already secured special treatment, they continued to pay geld on their previous ratings. However, some time before 1130, the earlier assessments were set aside and aids at an advanced figure were substituted. The growing wealth and self-sufficiency of the towns began to assert themselves. Down into the reign of Henry II the old danegeld, together with the newer *auxilia burgorum*, continued to be levied, but that energetic ruler proceeded to evolve a new and more profitable set of taxes. From the baronage, alongside the customary feudal aids, he took scutage in place of military service. From his boroughs, and eventually from his domain manors, he exacted special subsidies variously called *dona*, *auxilia*, *assisa*, and finally *tallagia*. Taken at irregular intervals by negotiation with the separate communities, these sums mark an enormous

increase over those obtained by Henry I and strikingly attest the efficiency of the Angevin's exploitation.[37]

To match this royal tallage of England contemporary princes in Western Europe had little to show. It was not till the next century that the kings of France, following the example of their vassals, were able to take any decisive steps in its direction. Within each great fief custom normally permitted the lord, lay or ecclesiastic, to levy a subsidy when confronted by some special need. The aids thus taken were seignorial, rather than feudal, for they were commonly paid by both noble and non-noble tenants. Except on definitely recognized occasions, the former could be expected to pay only voluntary contributions, and the effect of municipal charters was to place many towns in somewhat the same advantageous position. But in any case the outcome was not so much a matter of law as of political strength. A weak lord was hardly able to collect even the more regular aids, while the mere request of a powerful prince, no matter what he asked for, could be ill refused. An autonomous city state might dispense with all chartered privilege, but no amount of written guarantees prevented extortion from an actually dependent community. To interpret mediaeval taxation as following a set of rigid legal principles is to miss the point completely.

In order to get what money he required from an ordinary town the lord had only to negotiate for a grant, enlarging upon the urgency of his need, emphasizing the benefits secured from him in the past, and hinting the misfortune that his displeasure might occasion in the future. And if necessary, he was always willing to issue the letter of no prejudice for which his chancery kept a stock of forms on hand. It is true that auxiliary troops or money compositions were occasionally levied from towns, but such a practice could introduce no new principle, for municipal charters commonly restricted military service as well as tallage. If most taxes were levied because of wars, they were none the less taxes. The only way in which the French king,

[37] *Ibid.*, pp. 457 ff., 466 ff. *Donum* and *auxilium* appear in the twelfth century as equivalents for *tallagium* on seignorial estates (*M.H.P.*, ii, 466–468). For the boroughs in Domesday, see "The Origin of the English Towns," *A.H.R.*, xxxii, 10 ff. A sequel on the Anglo-Saxon borough will soon appear in *E.H.R.*

or one of his great vassals, could secure a general subsidy from all his dependents was by negotiating with each important individual or group. From that system to the calling of estates was but a step. How Philip IV and his successors used such meetings for fiscal purposes is quite familiar. And throughout the provinces from Flanders to Béarn, whether held by king or count, the same phenomenon recurred. In proportion to its wealth and political solidarity, the bourgeoisie secured power in the central councils.[38]

In Germany the situation was the same. The towns, either free of the old *Bede* or obliged to pay only fixed sums, were still solicited for extraordinary aids. And again the custom of dickering with each community was in time succeeded by the calling of representative assemblies. Even under Rudolf of Habsburg the *Reichsstädte* came to send deputies for making a grant to the king, and within another century many territorial diets had appeared in connection with similar practices on the part of the *Landesherren*.[39]

If now we turn back to England, in spite of all insular peculiarities, we find a familiar situation. The royal boroughs, it is true, had with slight exception never been exempted from tallage; but in the king's hands that exaction had corresponded rather with the extraordinary aids than with the *taille* of the Continent. That the boroughs were as legally liable for the imposition as lawyers could make them is beyond doubt.[40] However, this did not prevent their objecting to the tax. The action of London, to my mind, should be interpreted, not as an appeal to, but as a protest against the law. When, during the crisis under John, the city asked that it be exempted from tallage and recognized as having the right to grant its aids, it was merely echoing a demand raised by the bourgeoisie in all quarters. Nor, in an age when mere villages were securing

[38] *M.A.*, xxiv, 292 ff.

[39] *M.A.*, xxvi, 31 ff. On the origin of town representation in the *Landtag*, see G. von Below, *Territorium und Stadt* (Munich, 1900).

[40] The towns forming the confederation of the Cinque Ports were almost alone in being exempt from all royal tallage — a liberty which seems to have followed from their earlier freedom from danegeld. In the thirteenth century the king began levying ships from other seaports in place of tallage or as gratuitous subsidies, and by the fourteenth century all towns were held liable for service either by sea or land (*E.H.R.*, xxxiv, 460 ff.).

such guarantees in France, could one repulse be expected to end the Londoners' agitation. Indeed, there is plenty of evidence to show that the tallage continued to cause bitter opposition until it was dropped in favor of the new parliamentary grants.[41]

To explain the origin of the House of Commons as a purely insular phenomenon is surely mistaken. Any one who studies the mass of relevant material on the Continent can hardly escape the conclusion that the representation of the towns there was the logical outcome of a new system of taxation — one forced upon princes whose necessary expenditures were far exceeding their ancient sources of income, and one which had grown up with the towns themselves. To say this is not to imply that all representative assemblies were called to grant taxes: the system was obviously useful in many ways. But in proportion as fiscal necessity controlled the later fortunes of the estates, so it must have dominated their creation.

Knowing how both the earlier and later evolution of parliament turned upon matters of taxation, I find it hard to discount that factor as determining Edward I's policy. Even in connection with the counties, the representation of which was the most peculiar feature of the English system, fiscal considerations can by no means be ignored. Many writers on the subject have pointed out that, thanks to the Norman perpetuation and improvement of the ancient shire court, the lesser barons and other freeholders of the kingdom had come to be grouped in legally organized communities, or communes. How useful they had been to the king in police, justice, and other local affairs is a commonplace. But was that usefulness in itself enough to account for the knights of the shire as an estate in parliament? I do not think so. By associating them with the other sections of the council, Edward was able to assure the financial support of a very important element in his state, and one which strict feudal law would have prevented his taxing. But in this respect, as in all, his policy was distinctly antifeudal, and in following it he was not without precedent.[42]

[41] *E. H. R.*, xxxiv, pp. 473–475.

[42] The danegeld had been paid by all grades of landowners, and to supplement it

So, too, while making allowance for the importance of judicial and administrative work, I still feel that the incorporation of the burgesses as a permanent element in the great council was due primarily to the cash which the king was thereby enabled to get. For though he was not legally forced to tax the towns with their consent through deputies, he undoubtedly found it easier to do so. It was a political necessity that faced Edward, as it faced the other princes of the age. Indeed, if any of them had been strong enough, would he not have levied his imposts despotically? We cannot doubt, as M. Pasquet has so well said, that the autocratic Plantagenet saw in the problem of parliament nothing beyond an administrative difficulty.[43] And that he dreamed of recognizing constitutional principles, or of setting up national institutions is of course unthinkable.

Nevertheless, to state the king's intentions is not to exhaust the subject. Granting that he consulted only his own interests, we may still inquire more closely how he came to act as he did; may ask what outside circumstances helped to influence his decision. It has been argued that, since many towns regarded parliamentary service as a burden and sought to avoid the expense of sending deputies, their attitude could not have availed to force the issue of representation.[44] But does this conclusion follow from the evidence? For a small community to shirk costly responsibilities was only natural — so long as it had nothing to lose. But such action always presupposed the continuance of the existing system. Though two remained at home, there would still be enough burgesses at Westminster to safeguard all; the parsimonious townsmen were not for a moment desiring a return to arbitrary taxation.

To read back into the Middle Ages the perfected constitutional practices of the nineteenth century is of course a mistake.

Henry I had taken *dona* from the counties, apparently raised through negotiation with the shire courts. When taxes of national scope were once more levied in later reigns, it is significant that the county organization was again used to facilitate assessment and collection: Stubbs, *Const. Hist.*, i, 429; ii, 223 ff.; S. K, Mitchell, *Studies in Taxation under John and Henry III* (New Haven, 1914), pp. 135, 164; Pasquet, *Origines de la Chambre des Communes*, pp. 38 ff.

[43] *Ibid.*, ch. v. [44] *Ibid.*, pp. 179–199.

In the thirteenth century modern ideas of parliamentary legislation and taxation by majority vote did not exist. Even the groups that later came to be called estates were still inchoate. What the king could not get from a class he might yet take from individuals. Any exaction might be solicited as an aid. And in an age when *dona* were paid by prelates, barons, merchants, villeins, and Jews, to estimate the degree of free will involved in a given grant is not easy. Names amounted to nothing and formalities to little more. Between an arbitrary imposition that could be collected only through the coöperation of the payers and a contribution levied by consent there may have been a world of difference in theory; but there was not much in practice. The force that stayed the hand of the despot was not law, but the resistance, actual or potential, of the subject. Hence, however distinct their legal capacities, the measures adopted by Edward I and Philip IV were remarkably similar.

On ultimate analysis, it seems to me that in the organization of representative institutions in Western Europe we encounter the necessary result of a social revolution. This revolution, the product of a commercial revival, had created a new moneyed class, the support of which proved a decisive factor in the rebuilding of the European monarchies. For intelligent princes were quick to see that they stood to gain infinitely more from the good will of the rising burghers than from an outworn system of hated exactions. Accordingly, the tallage, together with other obsolete manorial arrangements, was generally abandoned in the towns, and less obnoxious payments were substituted. Especially by means of subsidies called voluntary, seignorial taxation was not only continued but enormously enhanced. Bourgeoisie and monarchy formed a famous alliance, which, breaking the political dominance of feudalism, eventually produced the modern state. That the men whose wealth had long been the chief reliance of indigent but ambitious princes should be given a voice in the reorganized central councils was quite inevitable.[45]

[45] The object of this essay has not been to prove that taxation was the only important factor in the evolution of the representative system, but to insist that it should not be so

Thus the same statesmanship that in the twelfth century had led to the granting of liberal municipal charters gave the towns representation in the fourteenth. Though the parliamentary system was ordained by the sovereign for his own convenience, that convenience was largely dictated by his need of taxes.

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hastily passed over as it has been in some recent books. It is obvious that a great deal of useful work can still be done in connection with thirteenth- and fourteenth-century taxation, and must be done before we can hope to understand the beginnings of parliament or of Estates General. It is also obvious that the evolution of similar institutions in Spain and Sicily has a direct bearing upon the subject, but the development of such comparisons I leave to other workers.

KNIGHT SERVICE IN NORMANDY IN THE THIRTEENTH CENTURY

A STUDY of knight service in Normandy in the thirteenth century shows the continuity of Norman institutions, in spite of the conquest and of separation from England. The French kings were at first content to preserve the rights of their predecessors without attempting innovations; the changes that occur during the first part of the century are logical developments, inherent in the system, and it is only toward the end of the period that deliberate interference by the king may be seen.

The general characteristics of the Norman military system are well known.[1] The obligation of military service was a common feature of the bond between vassal and lord; the striking thing in the Norman system was the definiteness of the obligation and its evaluation in terms of the unit of the knight's fee. Each military tenant owed the service of a fixed number of knights for a period of, usually, forty days. The number of knights was probably roughly proportionate to the value of the tenant's holdings, but the fact that the service of the more important lords was assessed by arbitrary groups of five, shows that it had originally no direct connection with definite amounts of land.[2] However with time the fees did become fixed to the land, they could be located geographically, and it was possible to say that a certain piece of land owed a certain amount of service.[3]

The tenants-in-chief followed the same system in their relations with their vassals. They granted land to be held by the service of a definite number of knights and these rear-vassals in turn might create fiefs on the same conditions.[4] In many

[1] J. H. Round, *Feudal England* (London, 1895), chapter on knight service, pp. 225 ff.; C. H. Haskins, "England and Sicily," *E.H.R.*, xxvi, 655 ff.

[2] Round, *op. cit.*, p. 241; cf. the list of Norman tenants in *H.F.*, xxiii, 693–694, where five-knight groups are particularly noticeable.

[3] *Ibid.*, pp. 693 ff.

[4] See the list of tenants of the honor of Mortain, many of whom had knights holding from them, *ibid.*, p. 696.

cases the service owed the tenants-in-chief was greater than the service they owed the duke; the bishop of Bayeux was not the only one to have five times as many knights as he needed to discharge his obligation.[5]

Not only was the amount of service definitely fixed but it was definitely recorded. Henry I, in 1133 made a list of the knight's fees held of the bishop of Bayeux;[6] Roger of Sicily drew up a record of the service of all his kingdom a few years later,[7] and Henry II was perhaps influenced by these examples. In 1166 in England, and 1172 in Normandy, he ordered the tenants-in-chief to furnish him a list, not only of the knight's fees they held, but also of the knight's fees held of them,[8] thus securing a complete record of military tenures.

The advantages of the Norman system can best be seen if these lists of Henry II are compared with the lists of fiefs drawn up about the same time in Champagne,[9] and forty or fifty years later in France.[10] In these non-Norman statements of holdings the service is indicated merely by saying that the tenant is *homo ligius*, that he owes *exercitum et equitatum* or castle-guard. The unit of the knight's fee does not appear, and the service seems to be the result of a purely personal relation between the lord and the vassal, not the result of holding land that owed a fixed amount of service. While a wealthy vassal would be expected to bring other knights to the army with him this obligation was not defined and was not recorded.[11]

If any army was to be raised solely by feudal methods and on the basis of feudal service the Norman system gave the best results possible. Such an army was perhaps sufficient for purely defensive operations, especially as in such cases it could be

[5] *Ibid.*, pp. 694–695.

[6] *Ibid.*, p. 699.

[7] G. Del Re, *Cronisti e scrittori* (Naples, 1845), i, 197; Haskins, *loc. cit.*

[8] *H.F.*, xxiii, 703; *The Red Book of the Exchequer*, ed. H. Hall (London, 1896), i, 270, 275, 412.

[9] A. Longnon, *Documents relatifs au comté de Champagne* (Paris, 1901), vol. i.

[10] *H.F.*, xxiii, 646 ff.

[11] Even in 1272, when some of the great French vassals have "servicia debita" (*H.F.*, xxiii, 753) many do not know the number of knights they should bring, e.g., the seigneur of Coq who sends 10 knights "dubitat tamen quantum debet pro exercitu"; *ibid.*, p. 759. Cf. p. 753, and p. 778.

reinforced by the *arrière-ban*, a service owed, theoretically at least, by all tenants.[12] Even for this purpose it was not entirely satisfactory, owing to the limit of forty days' service, and for prolonged operations outside the duchy it was almost useless. Moreover there was a constant tendency to subdivide the unit of the knight's fee, and though this was contrary to the custom [13] it could not be avoided in cases where there were only daughters to inherit. Many fractions appear in the list of 1172, some tenants owe only five days' service;[14] and the tenants-in-chief met with the same difficulties in making up their contingents. These tenants of small holdings would be poorly armed, poorly trained farmers rather than soldiers. It was obviously to the sovereign's interest to take money instead of service, and with the money to hire mercenaries; it was often to the interest of the vassal to avoid service by a payment in its place. This commutation of service for money appears early in Normandy, and by 1172 it was well established under the name of *auxilium exercitus*,[15] less frequently *scutagium*.[16] Each fee paid a certain amount, which varied from 4 to 10 pounds in the aids taken under Richard and John; [17] the tenants-in-chief after paying the king collected from their vassals,[18] who in turn collected from their non-military tenants.[19] The king reserved

[12] H.F., xxiii, 693, "Episcopus de Costanciis servicium V militum et ad suum servicium XIII milites (id est debet capere servicium XIII militum pro exercitu et similiter de aliis)" (the part in parentheses is found only in the French copy of the list); p. 694, the bishop of Lisieux owes 20 knights "et praeter haec habet X milites in banleuca Lexoviensis qui remanent ad custodiendam civitatem donec retrobannus summoneatur et tunc ibunt"; p. 701, "Omnes vero vavassores episcopi [of Bayeux] qui tenunt libere quinquaginta acras terrae vel sexaginta aut eo amplius debent servicium domino Normannie in exercitibus suis submonitis nomine proelii"; *Magni Rotuli Scacarii Normannie* (cited hereafter as *Rot. Scac.*), ed. in *M.A.N.*, 2nd series, vi, 99, "Rogerus de Bosco, 20 sol. quia non venit ad retrobannum," see also pp. 94, 104, 95.

[13] *Summa de Legibus*, ed. E. J. Tardif (Paris, 1896), p. 79.

[14] *H.F.*, xxiii, 697.

[15] *Rot. Scac.*, v, 83; vi, 4, 89, and *passim*.

[16] *B.E.C.*, xiii, 125; *H.F.*, xxiii, 622.

[17] *Rot. Scac.*, vi, 85, 89, an aid of seven pounds; pp. 92, 94, an aid of five pounds; pp. 4, 30, an aid of ten pounds; v, 76, 83, 86, aids of four and eight pounds.

[18] *B.E.C.*, xiii, 125–126; L. Delisle, *Recueil de jugements de l'Échiquier* (Paris, 1864), nos. 24, 99, 304, cases in the first quarter of the thirteenth century.

[19] Delisle, *Échiquier*, nos. 239, 392, 439, 628 the seigneur of Tillières agrees with his men on the scale of payments for "auxilium exercitus"; a free holding is to pay 2*s*., a "vancia" 12*d*., a "bordaria" 8*d*.

the right to take service or money as he chose, and those who defaulted when service was asked seem to have paid a fine as well as the cost of a knight to take their place.[20]

Was the aid levied only on the number of fees owed the king, the *servicium debitum*, or on the total number of fees held of the vassal? If the former method was followed, and the tenant took the same amount from each of his fees as was taken for each fee he held, he would have had, in most cases, a tremendous profit. The custom of the thirteenth century specifically forbade such a practice.[21] On the other hand, it is doubtful that the English practice of assessing aid on all the fees, and not solely on the *servicium debitum*,[22] was followed. If such an attempt was made it was not very successful, and the evidence for it is slight. The fact that the tenants of Normandy, like the tenants of England, were asked the number of knights at their service,[23] would seem to indicate the same purpose of increasing the aid by assessing it on all their fees, but there are other possible reasons for demanding this information. The official excuse given in England, that the king wanted the allegiance of the rear-vassals,[24] may not have been entirely false, and as almost every honor was sure to be in the king's hands at some

[20] *H.F.*, xxiv, *281, judgment of assises of Coutances 1217, "si vero dominus rex maluit capere denarios pro servicio militum quam ipsum servicium"; *ibid.*, *283, assises of Avranches, 1218, "quicquid domino regi de ipso placeret capere sive militem sive denarios"; Delisle, *Échiquier*, nos. 370, 380, fines for default of knights in 1225 and 1227; *Ordonnances des rois de France* (Paris, 1723–1849), xi, 351, Philip III fixes the scale of fines for those who did not perform service in 1272. The vassal may have had the right to insist on giving service instead of money, cf. *Rot. Scac.*, vi, 103, where an aid of £18 6*s.* 8*d.* for 3⅔ fees is quit "quia fecerunt servicium." See however *Échiquier*, nos. 24, 304, where a tenant is forced to pay aid.

[21] *Summa de Legibus*, p. 126, "nec majus auxilium exercitus potest de jure aliquis levare quam illud quod domino vel principi tenetur persolvere"; p. 71, "si forte habuerint feodo taliter instituta quod unum, vel duo, vel iii, vel iiii, eorum . . . debeant facere servicium unius militis apud ducem, quodlibet eorum secundem quantitatem sui de illo servicio faciet aut persolvet prout barones et milites collocabunt."

[22] *Red Book*, vol. i; compare the scutages of 1159 (p. 13), and 1172 (p. 48), with the lists of fees (pp. 186 ff.). The bishop of London pays for 20 knights in 1159, he admits having enfeoffed 36⅓ in 1166, and pays for 20 plus 16⅓ under protest in 1172. Even in England this increase does not seem to have been an entire success, and in later scutages the old assessment is restored. Thus in 1186 the bishop of Winchester who paid for 84 knights in 1172 (p. 55), pays for only 60 in 1187 (p. 67), and again for only 60 in 1190 (p. 72). The bishop of London likewise returns to his old quota in 1196 (p. 97). See however Round, *op. cit.*, pp. 241 ff.

[23] *H.F.*, xxiii, 703; *Red Book*, i, 186 ff. [24] *Red Book*, i, 277, 412.

time, either by wardship or escheat, it was obviously to his interest to know the tenants and the services they owed the lord. In the lists of the county of Champagne, and of France under Philip Augustus, the names of the rear-vassals are also given,[25] and here there can be no question of such an attempt to increase the aid. A stronger reason for supposing that the change was made is the fact that honors in the king's hand paid on their total number of fees [26] and not on the *servicium debitum*, but in such cases the position of both parties was exceptional. On the other hand many tenants paid only for the *servicium debitum*,[27] and they were numerous enough to make it seem that this was the rule.

It seems probable, then, that the aid was assessed only on the *servicium debitum*, and that the tenant divided the total sum he owed among the fees at his service. The bishop of Bayeux followed this practice [28] in raising money from his hundred fees to procure his contingent of ten or twenty knights,[29] and there is

[25] *H.F.*, xxiii, 670 and *passim*; Longnon, *op. cit.*, *passim*.

[26] *Rot. Scac.*, vi, 4, "110 lib. de auxilio exercitus de feodo XI militum de honore de Moon qui faciunt V milites ad servicium regis"; p. 30, the knight's fees of Hugh de Montfort pay a total of £229 11*s.* 8*d.* which corresponds with the 22⅙ plus ¼ fees of the list of the honor in 1172 (*H.F.*, xxiii, 698) where it is stated that the service due the king is not known.

[27] *Rot. Scac.*, vi, 89, the bishop of Coutances pays for 5 fees, but (*H.F.*, xxiii, 694) has 13 for his own service; p. 89, Guillaume de Sole pays for one fee and (*H.F.*, xxiii, 696) two are held of him; p. 89, Jordan de Champ-arnoul, who also (*H.F.*, xxiii, 696) has two knights, pays only for the one of his "servicium debitum"; p. 92, Oliver de Tracy pays for one knight and (*H.F.*, xxiii, 696) has four; p. 94, Torgise de Tracy pays for two and has (*H.F.*, xxiii, 696) eight. These cases are of the roll of 1203. There are others in the roll of 1195; *Rot. Scac.*, v, 83, Fulk de Vieux-Pont pays for the two knights of his "servicium debitum" instead of the ten at his service (*H.F.*, xxiii, 695); p. 87, Fulk d'Aunay pays for four and has twenty-four (*H.F.*, xxiii, 695); p. 87, Robert de Bunesboz pays for one and has three (*H.F.*, xxiii, 697). However, there is one case where payment is made on the full number; vi, 12, Pierre de Sableuil pays for eleven and a half knights, and (*H.F.*, xxiii, 695) Amaury de Sableuil owed three knights, and had eleven and one half for his own service. The change in ownership may have caused a wardship during which the king would collect from all the fees; it should be noticed that the rate is four pounds a fee, which is much lower than the rate on other tenants.

[28] In the first list of Philip Augustus; *cf. post*, p. 318.

[29] *H.F.*, xxiii, 699, "Episcopus Baiocensis debet invenire X optimos milites ad servicium regis Francorum per XL dies, et ad eos procurandos debet capere in unoquoque feodo militis XX solidos. . . . Cum autem invenit duci Normannie XL [an evident error for XX, the number given elsewhere, p. 694, p. 709] milites per XL dies debet capere in unoquoque feodo XL solidos. . . ." It should be noticed that these sums are well below the amounts levied per fee by Richard and John (see above note 17), and that the rate mentioned of 40 shillings per fee, taken on 100 fees, would just pay an aid of 10 pounds on the "servicium debitum" of the bishop.

no reason to suppose that he acted otherwise if he were raising money to pay the *auxilium exercitus*. The proportion of an aid to be paid by a sub-tenant became fixed in many cases; in the rolls of Philip Augustus we find men who hold two knight's fees, one fee, or a fraction, but who subtract a certain number of shillings from each hundred shillings of aid per fee.[30]

After the conquest of Normandy, Philip Augustus was careful to record the rights and practices of his predecessors, and three of his records of Norman fiefs remain. The first is a copy of the list of 1172 with annotations in some cases to bring it up to date;[31] it was probably made immediately after the conquest. The second list[32] was drawn up not much later, probably about 1208;[33] it is not complete and is badly arranged, several returns having been added at the end.[34] Some of the fiefs of other royal provinces are also listed, perhaps in imitation of the Norman practice, though the existence of similar records for Champagne may also have influenced Philip. The third list[35] is much fuller than the preceding one, not only for Normandy, but also for the other provinces, although omissions and repetitions have not been altogether avoided. It is drawn up by

[30] *H.F.*, xxiii, 711, "Henricus de Bruecort (a tenant of Montfort) dimidium militem, de quo respondet de XII solidis minus ad auxilia"; p. 709, Guillaume de Clarebec "ad servicium domini II milites V solidis minus" and also a later entry, p. 635, "Dominus de Clerebec duo feodo apud Clerbec et sciendum quod de auxilio centum solidorum deficiunt decem solidi"; p. 711, "Robertus I feodum militis de quo respondet per auxilium dimidii militis"; p. 610, Fulk Painel holds Croen of Mont-Saint-Michel "per membrum lorice, sed nescit quale, quia quando dominus rex accipit centum solidos pro auxilio exercitus ipse non reddit de Croen nisi quindecim solidos"; see other similar entries, p. 634.

[31] *H.F.*, xxiii, 693 ff. For example, "Guillelmus de Moion servicium V militum (Garinus de Glapion habet)."

[32] *H.F.*, xxiii, 705 ff.

[33] The list gives tenants who had been granted their land only in 1206 or 1207; L. Delisle, *Cartulaire normand de Philippe-Auguste* . . . (Caen, 1852, *M.A.N.*, 2nd series, vi), no. 1091, Jean d'Asnières granted the land of Gautier d'Esselée in 1207; *H.F.*, xxiii, 709, "Johannes de Asneriis pro feodo Galteri de Esselée I militem"; grants to Nicolas de Montigny and Jean de Montgombert in 1206 (*M.A.N.*, 2nd series, v, 155) are also recorded, *ibid.*, p. 709.

Argentan, granted to Henry Clement in 1207 (*Cart. normand*, no. 159), appears under his name, *ibid.*, p. 707. Later grants are not recorded and Garin de Glapion, who forfeited his lands in 1207 or early in 1208 (*H.F.*, xxiv, *Querimoniae Nor.*, no. 530), is still a tenant, *ibid.*, p. 707.

[34] *H.F.*, xxiii, 714–718.

[35] *Ibid.*, pp. 608 ff.

bailliages, and its quality varies according to the abilities of the officials responsible; the list for the Cotentin is clearest and best arranged. In some cases, as the Cotentin, the tenants-in-chief are listed first, and the sub-tenants follow, grouped under the honors of which they held; [36] in others, such as Caen, the number of rear-vassals is given for each tenant, but their names are given only for the honors in the king's hand.[37] In the *bailliage* of Gisors, where the tenants are grouped around the border-castles, the service is often castle-guard, and the Norman unit of the knight's fee is not always used.[38] This is natural in a border region where the customs met, and where French rule had been established before the conquest of the rest of Normandy. It is hard to date this list, but the latest entries of the Norman portion seem to be of 1224.[39]

Apparently the same method was followed that had been employed under Henry II to get the information necessary for the lists. The tenants were convoked and asked to give charts describing their holdings;[40] those who were absent sent letters,[41] and in doubtful cases inquests were held to decide the number and character of the fees.[42] The earlier list of Henry II must

[36] H.F., xxiii, p. 609.

[37] *Ibid.*, p. 618.

[38] *Ibid.*, p. 622, Vernon, the service is guard and is reckoned by knight's fees; p. 623, Mantes, knight's fees are listed but the typically French expression "exercitum et equitatum" is used; p. 624, Meulan, the formula is even more French, the vassal is "homo ligius et debet exercitum et equitatum"; p. 626, Anet, the "roncin de service" appears, and in one case may be substituted for "exercitum."

[39] *M.A.N.*, 2nd series, v, 156, gifts to Gautier Cambellan in 1218, and (p. 157) to Jean de Moncelles in 1221 are recorded, *H.F.*, xxiii, 639 and 640. The withdrawal of the Norman bishops from the army in 1224 is inserted, p. 637. Sole is listed as a fief of Jean de la Porte, p. 612, and in 1225 Jean exchanged Sole with Louis VIII for Quatremares, *Cart. normand*, no. 353, p. 310.

[40] *H.F.*, xxiii, 717, Baudri de Longchamps hands in a list and excuses himself if he has forgotten anything; p. 618, "Robertus Bertran cognoscit quod debet domino regi servicium novem militum . . . sed nondum scit quot feodo tenentur de eo, ut dicit"; *ibid.*, Henri de Neufbourg owes 2½ knights "ut dicit."

[41] *Ibid.*, p. 619, "Non fuit qui responderet de feodo Veteris Pontis quia domina quae custodit pueros manet in Francia; postea domina cognovit per litteras suas quod tenet per servicium duorum militum"; p. 657, Jean de Nesles of the *bailliage* of Vermandois sends his list directly to the king, "Sire, je vos envoi l'escrit des feiz que je tieng de vos, et je l'ai devisé au mien escient en bone foy et se je i avoie rien laissai qui à amender i feissit je l'amenderoie."

[42] *Ibid.*, p. 639, "Simon de Bello Sacco unum feodum apud Bellum Saccum et . . . (16 names) . . . per vere dictum servientum." P. 633, the list of holdings of Guillaume de Milli in the French Vexin ends "hanc inquisitionem fecerunt per juramenta Petrus de Bobiez, Johannes de Monte Chrevelli [a tenant of Guillaume] Johannes de Charcio et Theobaldus de Cormeilles."

have been used as a basis, for in several cases fees are recorded with the statement that the tenants deny the service.[43]

As a result of the confiscation of the land of John's adherents many fiefs, including some of the greatest honors of Normandy, were in the king's hand, and in his numerous grants of these lands Philip preserved the obligation of knight service. There is almost always a provision that the land is to be held "ad usus et consuetudines Normannie, ad servicium quod feoda debet"; [44] and in many cases it is possible to show that these grants were entered on the list of knight's fees and that service was later required from them.[45] In another type of donation Philip specified the amount of service to be given, either because he had formed a new group of lands, or to lessen the burden of the tenant, and here again the service was not forgotten.[46]

The system was still strong in the case of vassals who held directly of the king, but it was beginning to weaken in respect to the rear-vassals. Most of them had lost their military character as a result of giving aid instead of service, and by the middle of the century the Norman law made a distinction between the vassals who owed merely payment, and those who could be sent to the army.[47] This distinction can already be

[43] *H.F.*, xxiii, 612, "Episcopus Abrincensis quinque feoda de quibus negat unum"; p. 644, "Philippus de Bestisiaco duo feoda de dono domini regis et non cognoscit nisi unum"; see also pp. 617, 714.

[44] *Cart. normand*, nos. 105, 106, 130, 140, 141, etc. It should be noticed that at this time the grants of fee-farms begin, in which an annual payment takes the place of all services, and that they become more numerous under St. Louis. See nos. 179, 291, 378.

[45] *M.A.N.*, 2nd series, v, 157, Jean de Rouvray granted the lands of Roger le Bigot to the value of £140 for "servicia qualia feoda debet." *H.F.*, xxiii, 709, "Johannes de Roboreto debet servicium duorum militum pro terra Rogeri Bigot." A grant on similar conditions was made to Pagan de Meheusdin in 1204 (*Cart. normand*, no. 1071), it is listed under Philip Augustus as owing 1½ knights (*H.F.*, xxiii, 621), and in 1272 Guerin de Mehuesdin sends a knight to do 60 days' service for 1½ fees (*H.F.*, xxiii, 773). *Cart. normand*, no. 1099, Geoffroi de la Chapelle given land at "Fraeles," "per servicium quod ea debet ad usus et consuetudines Normannie," and in 1272 his son "vadit in exercitim pro uno feodo, ratione terrarum de Faeles" (*H.F.*, xxiii, 758).

[46] *Cart. normand*, p. 292, no. 159, Argentan given Henry Clement for the service of 5 knights; *H.F.*, xxiii, 773, the lord of Argentan sends four knights to the army of 1272, and it is noted that he owes another. *M.A.N.*, 2nd series, v, 155–157, several grants for service of one or more knights, e.g., Gautier Cambellan given Fontaines-la-Guérard for service of two knights; *H.F.*, xxiii, 639, this service recorded; *ibid.*, p. 775, a Gautier Cambellan sends two knights to the army.

[47] *Summa de Legibus*, p. 126, "sciendum etiam est quod quedam feoda lorice servicium exercitus debent dominis quod debet fieri principi, quedam vero auxilium exercitus." This distinction was enforced by a decision of Parlement in 1278; *Les olim*, ed. A. Beug-

seen in the rolls of Philip Augustus; there are many fiefs whose service is expressed in the terms of the aid they pay,[48] and others which are said to owe the king a knight *per manum domini*.[49] This distinction seems to be the result of special arrangements between tenants-in-chief and their vassals; thus the fees of the bishop of Bayeux, though they habitually paid aid,[50] were grouped by fives to furnish one knight to the king.[51] In another case we find that one knight's fee for the king's service is composed of two fees of the bishop of Avranches; [52] and there are several other entries in the rolls of Philip Augustus which indicate similar combinations.[53] In other cases the tenant-in-chief either preferred to find the knights himself and take aid from all his fees, or was unable to form groups owing a knight to the king because his vassals' holdings were too small. The abbot of Mont-Saint-Michel was able to get his vassals to furnish all but one of his knights, but one fee was so badly cut up that he took money from it instead.[54]

not (Paris, 1846), ii, 101, a knight tried to collect a fine from a vassal who did not perform military service at his summons, but the vassal said "sunt aliqua certa feoda in Normannia pro quibus tenentes ipsa feoda tenentur specialiter ad servicium exercitus, et quod alia feoda ad servicium exercitus generaliter non tenentur"; and Parlement decided in his favor.

[48] See above, note 30, and *H.F.*, xxiii, 621, 634–635, 645.

[49] *H.F.*, xxiii, 612, "sunt et alia feoda que tenentur de aliis dominis per quorum manus faciunt regi servicium"; *ibid.*, Jean de la Porte owes the king a knight "per manum episcopi Constanciensis."

[50] See above, note 29, and Delisle, *Échiquier*, nos. 29, 99, 187, 203, 269, 289, 299, 357, where the bishop sues to get aid.

[51] *H.F.*, xxiii, 700; Delisle, *Échiquier*, no. 187, Henri du Port acknowledges that he holds three knight's fees of the bishop and ½ knight's fee to the service of the king through the bishop; *ibid.*, no. 24, the constable of Normandy holds 9 (or 7) fees of the bishop and 2 for the service of the king; *H.F.*, xxiii, 637, five fees held of the bishop in Brotonne; *Cart. normand*, no. 464, these fall into the king's hands and the bishop is quit of the service of one knight. In 1297 actual service was required. See below, note 98.

[52] Delisle, *Échiquier*, no. 370, Henri de Beaufou fined for not furnishing a knight for the king's service to the bishop of Avranches; *H.F.*, xxiii, 709, Henri holds two knight's fees of Avranches.

[53] *H.F.*, xxiii, 709, "Robertus de Angiervilla, ad servicium domini regis I militem, et ad servicium domini sui II milites XII denariis minus"; *ibid.*, "Guillelmus de Claro Becco, cujus terra est in manu regis, I militem ad servicium regis et ad servicium domini II milites V solidis minus." See also note 21. The theory of the *summa de Legibus*, p. 70, "quod barones habent quedam feoda ad servicium ducis attributa; instituta enim fuerunt antequam baronie donarentur," does not explain all such cases.

[54] *Ibid.*, p. 571, "Quintus vero miles per homines nostros de Verson et de Bretevilla, ita tamen quod solvunt viginti libras tur." *Ibid.*, p. 704, Mont-Saint-Michel has 13 tenants at Verson and Bretteville.

When a rear-vassal owed actual service to the king through his lord he became entirely responsible for that service and had to pay any penalties inflicted on the lord for his default.[55] This would not be the case if his holding owed only aid, and by reason of escheats the king himself had vassals from whom he could not require service.[56]

Not only were the tenants-in-chief unable to require actual military service from many of their vassals, but often the latter tried to escape from the obligation of giving aid. They were aided by the numerous changes and by the confusion resulting from the conquest and the confiscations which followed it. The records of the Exchequer are full of complaints of lords against vassals who were withholding aid or service, and in almost every case the decision is in favor of the lords.[57]

The Norman tenants were called on frequently during the first half of the thirteenth century for military service. The bishop of Bayeux won a case regarding army aid in 1207 [58] which would indicate a summons shortly before, as aid could be levied on sub-tenants only after service had been given the king.[59] There are two suits for aid in 1212; in one the king is the plaintiff, in the other the aid is evidently for that year, as the tenant is ordered to pay the same aid that she paid in 1211.[60] Two lords prove their right to aid or service in 1215 and 1216, but it is not certain that this refers to a new levy.[61] A case in the Exchequer of Easter, 1217, states that the bishop of Seèz had been summoned for service shortly before,[62] and Mont-Saint-Michel won three claims for knight service in the assises of

[55] Delisle, *Échiquier*, no. 380, a knight who defaults on his service to the king owed through a baron must pay the fine inflicted on the baron for his default; nos. 370, and 402, examples of this practice.

[56] See the lists of the *bailliage* of Caen in the records for the army of Foix of 1272, where many tenants claim they owe aid only: *H.F.*, xxiii, 755.

[57] Delisle, *Échiquier*, nos. 24, 99, 102, 187, 203, 269, 289, 299, 357, 380, 392, and *passim*. In many of these cases the justice of the lords' claim may be established by comparison with the lists of 1172 and those of Philip Augustus.

[58] *Ibid.*, no. 24.

[59] *Summa de Legibus*, p. 126; *Cart. normand*, no. 201.

[60] Delisle, *Échiquier*, nos. 99, 102.

[61] *Ibid.*, nos. 160, 187.

[62] Delisle, *Échiquier*, no. 214; see also nos. 209, and 215, which refer to aid taken at this time.

1217 and 1218.[63] The bishop of Avranches was fined for the default of a knight and collected the fine from the defaulter in the Exchequer of 1225;[64] the abbot of the Mount won a similar case in 1227.[65] Several tenants sue for aid in 1229 and 1230, probably in connection with the campaign against Brittany in 1228.[66] We have the lists of the principal barons summoned in 1236, 1242, and 1253, and a record of their service in 1242.[67] There exists also a record of the service given by Mont-Saint-Michel in 1245, in answer to a summons that was sent *per Normanniam*,[68] and two complaints of the *Querimoniae* seem to refer to an aid taken in that year.[69]

The king retained the right to take knight service, or money, as he chose,[70] but the absence of financial records makes it impossible to determine the number of those who paid aid, and the amount of aid paid per fee. As has been shown above, important tenants, such as the bishops, were regularly summoned to send knights, but a large portion of the tenants must have given aid instead, to judge by the small number of knights that appear in the *Servicia Normannia* of 1242.[71] As to the amount, the aid of five pounds was taken as the type in the lists of Philip Augustus,[72] and remained the rule in at least one district, Évreux.[73] On the other hand we know from several sources that the wages of a knight were ten shillings a day, or twenty

[63] *H.F.*, xxiv, *281, no. 43, *283, no. 48.

[64] Delisle, *Échiquier*, no. 370; see *H.F.*, xxiv, *292, no. 79, an inquest on the amount of "auxilium exercitus" paid by a fief of the Mount in the same year.

[65] Delisle, *Échiquier*, no. 402, see also no. 406.

[66] *Ibid.*, nos. 439, 441, 445 (1229); no. 460 (1230).

[67] *H.F.*, xxiii, 725, 726, 730, 729. [68] *Ibid.*, p. 571.

[69] *H.F.*, xxiv, *Querimoniae Nor.*, nos. 247, 423. The latter says that "auxilium exercitus" has been taken for the past three years (1245–1247).

[70] *H.F.*, xxiv, *281, no. 43, "si vero dominus rex maluit capere denarios pro servicio militum quam ipsum servicium . . ."; *ibid.*, *283, no. 48, "quicquid domino regi de ipso placeret capere, sive militem sive denarios. . . ."

[71] *H.F.*, xxiii, 729.

[72] *Ibid.*, p. 610, "quando dominus rex accipit centum solidos pro auxilio exercitus"; p. 635, "de auxilio centum solidorum"; p. 634, "quando auxilium levatur de C solidos"; p. 712, a list of the fees of Paci and below a list of "defectus praedictorum feodi Paciaci," sums taken by the king or his officers from the holders of these fees at the rate of 100 shillings per fee.

[73] Delisle, *Échiquier*, no. 707, an inquest at Évreux in 1243 declares that army aid is 100 shillings and no more.

pounds for the forty-day period of service,[74] and the sums of twenty-five pounds paid by the bishop of Avranches and the abbot of the Mount [75] for default of a knight would indicate an aid of twenty pounds plus a five-pound fine.

For the campaign of 1272 against the count of Foix the records are more complete; we have a list of those summoned to appear at Tours, a list of those who appeared, and a final list of those who actually went with the army.[76] This allows a comparison with the service due under Henry II and Philip Augustus, and in many cases we find that the number of knights owed has remained the same during the interval of one hundred years. The abbot of Jumièges owes three knights in 1172, and under Philip Augustus, and three knights appear for him in 1272.[77] The bishop of Bayeux owes ten knights for service outside of Normandy in 1133, 1172, and 1208, and sends ten knights to Tours.[78] The five knights of the barony of Briquebec, and the three knights of Tornebu also appear in all the lists.[79] In other cases where the number of knights is less than the old *servicium debitum* the reason for the decrease can be found. Thus Mont-Saint-Michel owed seven knights in 1172 and only five appear in the army of Foix,[80] but from a comparison of the lists of service made by the abbot in 1172 and 1245 [81] we see that the two missing fees were held by the earl of Chester, Guillaume de Saint-Jean, and Raoul de Fougères. The lands of the first two were seized by Philip after the conquest,[82] and Raoul's holdings, confiscated during the troubles with Brittany, were perhaps not fully restored.[83] The bishop of

[74] *H.F.*, xxiv, *Quer. Nor.*, no. 500, a knight asks £18 10*s.* for service of 37 days in the Albigensian campaign of 1228; *ibid.*, no. 301, a knight asks £20 for 20 days' service by himself and a vassal; *H.F.*, xxiii, 572, the abbot of the Mount takes £20 to hire a knight at 10*s.* a day; *Ordonnances*, xi, 351, wages for a knight in 1274 are 10*s.* a day. See J. E. Morris, *Welsh Wars of Edward I* (Oxford, 1901), p. 49; the rate in England was slightly less, 2*s.* sterling a day.

[75] Delisle, *Échiquier*, nos. 370, 402. In the *ordonnance* referred to above the fine for default is £10.

[76] *H.F.*, xxiii, 735 ff., 753 ff., 767 ff. From these a final list of service owed was made, a fragment of which may be found in B.N., MS. lat. 9016.

[77] *H.F.*, xxiii, 694, 707, 772 and 775.

[78] *Ibid.*, pp. 694, 709, 753.

[79] *Ibid.*, pp. 695, 609, 777, and 695, 619, 772.

[80] *Ibid.*, pp. 695, 754, 763.

[81] *Ibid.*, pp. 703, 571.

[82] *Ibid.*, pp. 707, 612.

[83] *Cart. Normand*, nos. 732–735.

Coutances was excused the service of one of his five knights in 1238 because the fee was in the king's hands; [84] Courcy likewise was allowed to drop a knight because of a forfeiture.[85] The barony of Saint-Sauveur, which owed five knights in 1172, sends only four, but it is noted that the barony is not whole.[86] Other reductions are due to the fact that some vassals preferred to pay a fine rather than render service, especially if they did not have many tenants who owed knights for the king's service. Thus in the Cotentin, the only *bailliage* where the summons give the number of fees, the holdings total 87 knights, which is slightly more than the number held by tenants-in-chief under Philip Augustus,[87] but the service given is 50.[88] In Caen 156 tenants are summoned, only 56 appear at Tours, and 24 of these claim that they owe aid alone. They apparently won their point, for only 27 men appear in the final list.[89] Many of the knights who appear for the tenants-in-chief are obviously those whose fees were *instituta ad servicium ducatus*,[90] and who could not escape by paying aid.[91] This would explain why a tenant such as the bishop of Lisieux sends only three knights of the twenty he owes; these are the only ones who owe service to the king through his hand.[92]

Escheats to the king and fees paying aid alone have reduced the size of the contingents noticeably. Under Henry II groups of ten and fifteen knights were not uncommon; in 1272 the bishops of Bayeux and Avranches are the only tenants to send more than five and the group of five is unusual. It is interesting to note that the same decrease in the size of the groups

[84] *Cart. normand*, no. 437. [85] *H.F.*, xxiii, 772.

[86] *Ibid.*, pp. 694, 609, 764.

[87] *Ibid.*, pp. 735, 608, 612. Avranches at that time a separate *bailliage*.

[88] *Ibid.*, p. 763. [89] *Ibid.*, pp. 736, 755, 772.

[90] *Summa de Legibus*, p. 126.

[91] *H.F.*, xxiii, 773, "Dominus Guillelmus de Graeyo pro abbati Cadomensi ratione feodi de Ros pro quod debet servicium unius militis per XL dies"; cf. *ibid.*, p. 619, "Abbas Sancti Stephani Cadomensis tenet unum feodum quod Albereda de Ros tenet de ipso"; *ibid.*, p. 772, "Guillelmus de Freigni pro domino Richardo de Monte Trichardi qui debet pro abbate Jumegiarum unum militum"; *ibid.*, p. 764, Guillaume de Vauville appears for the barony of Vernon, and p. 609, a man of the same name holds a fief of Vernon under Philip Augustus.

[92] *Ibid.*, pp. 694, 636, 771–772, the formula for all three knights is "debet unum militum pro episcopo." *Ibid.*, p. 729, service of 1242, the bishop sends only three knights.

appears in England in 1277, though the reasons for the change are more obscure.[93]

The amount of aid paid per fee remains doubtful. One of the tenants of Caen who claimed that he owed aid instead of service said that his payment was £25 10*s.*, for seven-eighths of a fee,[94] which would make the rate about £29. This compares with the £20 for service plus £10 fine inflicted by the *ordonnance* of 1274 on those who did not answer a summons to furnish a knight.[95] In 1276 the *bailli* of Caen accounted at the Michaelmas Exchequer for £680 of *auxilio exercitus* in Caen, and £132 in Exmes.[96] Unfortunately no details are given and the rate at which aid was paid cannot be determined.

The army of Sauveterre of 1276 seems to have been raised in Normandy in the same way as the army of Foix,[97] but one important innovation is to be noticed; the king took the aid directly from the knight's fees of the lords who should have gone to the army and who defaulted, instead of taking it through the lords.[98] This marks a weakening of the old system and under Philip IV the process was continued. In raising his armies for the wars in Flanders the principal Norman lords, those who could furnish an effective military force, were summoned as before,[99] but instead of an aid by knight's fees on other holdings a subsidy was assessed directly on all classes. The non-nobles paid by groups of one hundred fires, each group giving the wages of six or four sergeants, and the nobles who did not go to the

[93] *Parliamentary Writs*, i, 197, the bishops of York, Norwich, Lincoln, London, Salisbury, pay for five knights each in 1277; *Red Book*, i, 14–17, they pay in 1256 for 7, 41, 60, 20, 32, respectively. This decrease may represent a consolidation of many fees paying scutage into a few owing actual service, as suggested by J. E. Morris, *op. cit.*, p. 46, especially as these fees pay a very high scutage plus a fine for not giving service, which in Normandy would indicate a fee of the military type.

[94] *H.F.*, xxiii, 754. [95] *Ordonnances*, xi, 351.

[96] Arch. Nat., J. 775, no. 9.

[97] *Cart. Normand*, no. 867, orders to *bailli* of Caen to summon knights for the army; *H.F.*, xxiv, *349, no. 207, the exchequer orders a tenant of Saint-Ouen to pay the abbey a fine and the expenses of a knight which they had to furnish in place of the one he owed the king through them; *Olim*, ii, 101, the case of Guillaume Bertrand against one of his tenants in which the latter proved that he owed only aid, as his fief was not "specialiter teneri ad servicium exercitus," and that he could not be fined for default.

[98] E. Perrot, *Arresta Communia Scacarii* (Caen, 1910), nos. 13, 14.

[99] *H.F.*, xxiii, 788, 795. M. Béziers, *mémoires* (Rouen, 1896), i, 158, summons of the bishop of Bayeux to vassals, and seizure of fiefs of defaulters.

army paid one fifth of the value of their land.[100] Thus the knight's fee lost its value as a fiscal unit after having ceased to be a military unit, and remained only as a formula of land-holding.

JOSEPH R. STRAYER

[100] *H.F.*, xxi, 564. The total sum raised in Normandy in 1304 was £102,916 19*s.* 4*d.*

CENSUS DE REBUS IN THE CAPITULARIES

The problem of the survival of Roman land-taxes into the middle ages has been the subject of many studies during the last century,[1] resulting in a fairly firm doctrine on main points. It is now generally held that these taxes, although surviving only in partial measure, maintained their basic character into the ninth century. Just what happened after that is less certain and has been less closely investigated. The present doctrine seems to have been laid down by Championnière,[2] and later writers content themselves with restating his thesis.[3] This theory maintains that there is a connection between the Roman *census*, a land-tax, and the feudal *cens*, a payment recognitive of tenure; the continuous use of the term thus covers the transformation of a tax into an economic rent. Apart from the effect of immunity charters,[4] the process of transformation is supposed to have been due largely to the transformation of offices into lordships, and to have taken place in the early feudal period when these lordships were forming out of the débris of local administration. Sources for this period are few, and the process can be reconstructed only in outline, by hypothesis.

[1] For the most recent and in many respects the most comprehensive study, cf. Professor Ferdinand Lot, *L'impôt foncier et la capitation personnelle sous le Bas-empire et à l'époque franque*, (Paris, 1928). For bibliography of earlier works, cf. H. Brunner, *Deutsche Rechtsgeschichte*, ii (2nd edition, Munich and Leipzig, 1928), 313.

[2] In his important study of feudal institutions under the misleading title *De la propriété des eaux courantes* (Paris, 1846), pp. 314–316.

[3] Delisle, Vuitry, Viollet, Luchaire, Declareuil and Chénon could be cited in this regard. For a recent and characteristic statement of the theory, see E. Chénon, *Histoire générale du droit français, public et privé* (Paris, 1926), i, 305. As far as I know, this necessarily difficult investigation of the relation between ninth-century taxes and thirteenth-century rents has not been pushed much further since Championnière.

[4] The immunity is regarded very generally as having aided in transforming land-taxes of tenants into rents: cf. Chénon, *op. cit.*, i, 305. The argument seems to me rather dubious, for it depends on whether or not tenants paid the land-tax before immunity was granted. If they did not, then the immunity would not have had the effect claimed. That the Roman tenant did not pay the land-tax on his holding is fairly clear; cf. Lot, *Impôt foncier*, pp. 65–70, and the present writer's article in *Mélanges d'histoire offerts à Henri Pirenne* (Brussels, 1926), pp. 475–481. The writer has studied the question in detail, and with reference to Egyptian practice as well as to Roman, in a thesis in the Harvard Library, HU 90.1811 (1926).

Some investigators, however, seem to have felt that the process of transformation was already at work before the beginnings of feudal anarchy. Waitz was inclined to deny the existence of any real taxes, in the sense of public obligations, in the ninth century.[5] Declareuil notes that in abandoning the land-tax to immunists the Carolingians had ended "par ne plus distinguer ce droit régalien d'un fermage ordinaire."[6] Professor Lot, rejecting the theory that the *census* had definitely become private revenue by the ninth century, grants that the evolution had commenced.[7]

The present writer, while working on another problem, encountered a line of evidence which points to a conclusion that might almost be stated in the phrase of Declareuil, quoted above. It seems worth while to present this evidence, for it not only substantiates and gives form to conjectures that the *census* of the ninth century were already changing in character, but throws some light on the mode and degree of transformation.

The starting point is a rule regarding *census de rebus* which was first stated by Charlemagne in the *Capitulare de justitiis faciendis*.[8] According to chapter eleven, when property owing a *census* to the king had been given to a church, the land must be returned to the heirs or the *census* paid by the new owner.[9] A

[5] G. Waitz, *Deutsche Verfassungsgeschichte*, iv (2nd edition, Berlin, 1885), 112. He does not argue the point, and the statement can hardly be accepted in so sweeping a form. The Danegeld was a public contribution, and Hincmar shows that some men had rather clear ideas of the nature of taxation, even in the later ninth century (Lot, *Impôt foncier*, p. 136).

[6] J. Declareuil, *Histoire générale du droit français* (Paris, 1925), p. 120. The point is not further developed by Declareuil.

[7] Lot, p. 115: "— l'impôt tend à se confondre avec une redevance d'ordre privé. Mais l'évolution n'est pas achevée. . . ." Just how far the evolution had gone, or what its marks were, is not considered. Professor Lot is here concerned with showing that loose usage of the term *census*, to designate any sort of payment, does not allow the conclusion that all *census* are private rents.

[8] *M.G.H., Legum Sectio II. Capitularia Regum Francorum*, ed. Boretius and Krause, i, 177 (811–813).

[9] "Ut de rebus unde census ad partem regis exire solebat, si ad aliquam ecclesiam traditae sunt, aut reddantur propriis heredibus, aut qui eas retinuerit illum censum persolvat."

The preceding c. 10 of this capitulary may be cited here as introductory to this text: "Ut missi nostri census nostros perquirant diligenter, undecumque antiquitus ad partem regis exire solebant, similiter et freda; et nobis renuntient, ut nos ordinemus quid de his in futurum fieri debeat."

few years later the same principle is enunciated in a capitulary of Louis the Pious: "*De terra tributaria.* If any one shall convey *terra tributaria*, whence *tributum* was wont to be paid us, to a church or to any one, the person receiving the land must by all means pay the accustomed *tributum* unless he have such documentary proof from us as to show that the said *tributum* has been relaxed in his case." [10] The close resemblance between these texts is apparent; there would seem to be no basis for making a distinction between *census* and *tributum*.[11] The same rule is repeated, finally, in capitularies of Charles the Bald.[12]

Under the prevailing interpretation of these texts, *census* and *tributum* denote land-taxes.[13] The rule would be proof of the survival of land-taxes, in some measure, from the Merovingian period, and evidence of the government's desire to check the loss incurred when tax-paying property passed to ecclesiastical hands, so often enjoying immunity.

If *census* and *tributum* do represent land-taxes, then by general consent this rule of 811–813 would have an obvious bearing on the immunity. To indicate exactly what this relation would be, let us review certain fundamental points of the immunity privilege.

[10] *Ibid.*, p. 287, c. 2: "De terra tributaria. Quicumque terram tributariam, unde tributum ad partem nostram exire solebat, vel ad ecclesiam vel cuilibet alteri tradiderit, is qui eam susciperit tributum quod inde solvebatur omni modo ad partem nostram persolvat, nisi forte talem firmitatem de parte dominica habeat, per quam ipsum tributum sibi perdonatum possit ostendere." The date of the capitulary is 819.

[11] A distinction is claimed by A. Dopsch, *Die Wirtschaftsentwicklung der Karolingerzeit*, 2nd edition (Weimar, 1921–22), i, 193. According to him, *terra tributaria* is land held by unfree tenants. *Contra*, cf. Brunner, *op. cit.*, ii, 320, note 34 (von Schwerin's opinion).

[12] *M.G.H.*, *Capitularia*, ii, 331, c. 8: "Ut missi nostri de omnibus censibus vel paraveredis, quos Franci homines ad regiam potestatem exsolvere debent, inquirant et, ubi per neglectum dimissum est, exsolvi faciant et diligenter de singulis comitatibus cuncta describant et nobis renuntient. Similiter et de terris censalibus et de rebus ad casas Dei traditis unde census ad partem regis exivit antiquitus. Et si aliquis aliquam auctoritatem regiam inde ostenderit, ad nostram praesentiam ipsam auctoritatem deferri faciant."

A rambling restatement of the rule is found in the *Edictum Pistense*, 864; *ibid.*, ii, 322, c. 28. That statement, however, presents certain new features which need special consideration and cannot be dealt with here (cf. *post*, note 83). There is no mention of immunities.

[13] Cf. among others, A. Dumas, "Quelques observations sur la grande et la petite propriété à l'époque carolingienne," *Revue historique de droit français et étranger*, 4th series, v, 646–650; F. Dahn, *Die Könige der Germanen* (Leipzig, 1861–1911), viii, 2, p. 34: Lot, *Impôt foncier*, pp. 107–108.

In the first place, property enjoying the advantages of immunity was freed from all public obligations of a financial order.[14] *Annua dona* were, to be sure, paid by the aristocracy, lay and ecclesiastic, but these *dona* had the character of personal payments and are supposed to have originated in voluntary gifts. Their development into regular levies constituting a real tax took place after the immunity assumed its form, and took place outside the sphere of immunity grants.[15] A second fundamental characteristic of the immunity was that the exemptions and liberties granted were applicable to all possessions and acquisitions, past and future. The charters show wide variations in expressing this principle. A formula of Marculf extends the immunity to "villas . . . quas moderno temporae aut nostro aut cuiuslibet munere habere vidaetur, vel quas deinceps in iure ipsius sancti loci voluerit divina pietas ampliare."[16] A more expansive charter elaborates the possibilities: "tam quod per preceptiones vel indulgentias seu emunitates regum vel a christianis hominibus atque diversis contractibus pro quibuscumque instrumentis cartarum . . . fuit collatum vel delegatum aut in futuris temporibus addendum vel delegandum. . . ."[17] Still another charter extends the immunity to lands gained "ex munificentia regum vel reginarum aut id quod per venditiones commutationes cessiones titulis vel per quelibet strumenta cartarum. . . ."[18] The norm of inten-

[14] This is generally held so far as the Carolingian period is concerned. As regards the Merovingian, Kroell presents a view shared by several authorities in his contention that the immunity did not free the proprietor from paying the taxes in person unless a specific cession were made of fiscal revenues: M. Kroell, *L'immunité franque* (Paris, 1910), pp. 114–124. But Levillain has recently restated an older view, still strongly supported, to the effect that the immunity grew out of the Roman conception of an immunity and was therefore primarily an exemption from taxes. A clause of cession would be a mere formality and its omission in a few charters of the seventh century would have no significance ("Note sur l'immunité mérovingienne," *Revue historique de droit français et étranger*, 4th series, vi, 61–64).

[15] Cf. Kroell, p. 193; Lot, *Impôt foncier*, p. 123; and E. Lesne, *Histoire de la propriété ecclésiastique en France* (Lille, 1910–28, Mémoires et travaux des facultés catholiques de Lille), ii, 2, pp. 411–419.

[16] Marculf I, no. 3, in *M.G.H., Legum Sectio V. Formulae*, i, 43.

[17] The confirmation of immunity for Saint-Martin of Tours, in *M.G.H., Diplomata Karolina*, i, 191, no. 141, of the year 782. Cf. a charter of 826 for Prüm in the *Urkundenbuch zur Geschichte der mittelrheinischen Territorien*, ed. H. Beyer (Coblenz, 1860), i, 63, no. 57.

[18] *M.G.H., Diplomata Karolina*, i, 95, no. 66, for Trier in 772. The most detailed

tion which these various phrasings disclose was evidently to extend immunity privileges to all possessions of the favored foundation.[19] Renewals or extensions of the immunity were therefore unnecessary in case of further acquisitions.

When the rule of 811–813 is considered in relation to these points, its import stands out clearly. Referring to land-taxes, that rule would constitute a serious modification of the effects of an immunity and would mark a departure from one of the oldest principles embodied in such grants. Once denoting, perhaps primarily, exemption from public obligations, the immunity would no longer apply to acquisitions of tax-paying land. But if the rule of 811–813 had so marked an effect, then several matters demand explanation.

There is, in the first place, the fact that the rule as stated gives no impression of effecting an innovation. On the contrary, the rule is put in a bald, matter-of-fact form which suggests the confirmation of established practice that needs no comment.[20] Indeed, as stated in the *Capitulare de justitiis faciendis*, the injunction is retroactive; if the rule were to be applied to all past acquisitions of *census*-paying lands the result would be difficulties in administration, to which, however, the enactment seems indifferent.

In the restatement of 819, the style is such as to involve positive confusion. The rule shall apply, it is stated, except where the recipient of *census*-paying lands has a *firmitas* to show that such payments are excused. Apparently, an immunity charter would constitute exactly such a *firmitas*. Not all ecclesiastical foundations enjoyed immunity,[21] and moreover the statement of 819 applies the rule to cessions to a church or

charter in this regard is perhaps an immunity of Charles the Bald of ca. 850, in *H.F.*, viii, 515, no. cii.

[19] This conclusion seems to be in line with the general consensus of opinion on the point; cf. G. Waitz, *Deutsche Verfassungsgeschichte*, iv (2nd edition, Berlin, 1885), 305–306; T. Sickel, "Beiträge zur Diplomatik, v," *Sitzungsberichte der Kaiserlichen Akademie der Wissenschaften*, Phil.-Hist. Classe, xlix, 334; and Kroell, p. 94.

[20] The acquirers of land which had paid a *census* are given the option of making this payment or of returning the land to the heirs of the former owner. This latter provision does not, it seems to me, indicate that the whole regulation is novel. Such a provision itself could very well have been an old rule.

[21] St. Gall is a notable case in point. The immunity was acquired under Louis the

"to any one"; hence the text would make perfectly good sense if the *firmitas* demanded were an immunity charter. That the immunity did *not* meet the requirements we can see from some Kempten charters. Kempten received immunity under Charlemagne.[22] Yet in 832 Kempten asked for and received a charter [23] which states that during the reigns of Charlemagne and Louis some ninety-six *hobae* had been conveyed to the monastery by freemen from various districts, and that a *census ad publicum* had been paid from these *hobae*; Louis confirms these properties to the monastery [24] and also cedes the *census* in question. This case shows the working of the rule of 811-813 and shows that an *immunitas* was no bar to the rule. But that fact is far from obvious in the rule itself!

We are thus led inevitably to a further and more fundamental question; why, if the rule of 811–813 made a change in the effect and scope of an immunity, is the immunity never mentioned? Such mention would seem not only natural but almost necessary in order to avoid confusion, particularly in the case of the statement of 819, with its ambiguous *firmitas*. Yet, though the rule is stated and repeated four times in varying phrase, not once is there the slightest allusion to the immunity, or the slightest indication that the rule lessens the content of the immunity privilege.

Reference to the immunity would be expected, and would be easy to make; a simple *non obstante immunitate* would suffice. And in other cases where capitulary enactment affects the immunity, on matters as vital as *census*, the capitulary texts are wont to note the fact. For example, the immunity did not free the inhabitants of a territory from certain public services such as road and bridge work.[25] Pepin, declaring the

Pious: Th. Sickel, "St. Gallen unter den ersten Karolingern," *Mittheilungen zur vaterländischen Geschichte*, iv, 1–22.

The majority of bishoprics and monasteries seem to have enjoyed the privilege by the ninth century: Kroell, p. 172.

[22] Known by the confirmation of Louis the Pious in 815: *Monumenta Boica*, xxviii, 9. Cf. Böhmer-Mühlbacher, *Die Regesten des Kaiserreichs unter den Karolingern, 751–918*, 2nd edition (Innsbruck, 1899–1908), i, 253, no. 582.

[23] *Monumenta Boica*, xxxi, 61, no. 26: Böhmer, *Regesten*, i, 355, no. 899.

[24] "easdem hobas eidem monasterio confirmando concederemus."

[25] Kroell, p. 254.

general liability of subjects for such services, is careful to add that an immunity is no bar to their performance.[26] An Italian capitulary of Lothaire may also be cited here.[27] The ruler states that those who cede their lands to a church with the fraudulent intent of escaping public burdens (*ob vitandam reipublicae utilitatem*) must nevertheless perform the requisite services (*hostem et reliquas publicas functiones faciant*);[28] if these services are not rendered, the counts may use compulsion to secure performance. This injunction is liable to cause trouble on account of the clause in immunities which forbids a count to enter immune territories and to use distraint therein; the capitulary is careful to add "notwithstanding our immunity."[29]

And finally, if it is hard to understand why the various statements of the rule of 811–813 fail to mention immunities, it is equally difficult to explain the noteworthy failure of the immunity charters themselves to register any effect of this rule. If *census* and *tributum* in our texts denote taxes, then the effects of the immunity have been changed and restricted on an important point if not on a central feature of the privilege.[30]

Though tending to become stereotyped, the immunity charters after 814 still offer numbers of variant and independent forms, and are still marked by occasional additions of detail on matters of possible interest.[31] They are flexible enough to allow

[26] "Ut de restauratione ecclesiarum vel pontes faciendum aut stratas restaurandum omnino generaliter faciant, sicut antiqua fuit consuetudo, et non anteponatur emunitas nec pro hac re ulla occasio proveniat": *M.G.H., Capitularia*, i, 192, c. 4. The capitulary is intended for Italy, 782–786. Cf. *ibid.*, p. 319, c. 11: "Volumus ut scubia publica . . . praecepta inmunitatum inpedimentum non praestent set adiutorium." Pepin wants to make clear the scope of the immunity for Lombard subjects who were not accustomed to the régime. But was there more reason for his being so careful as to *scubia* than for Charlemagne and Louis to note a modification in the general meaning of immunities?

[27] *Ibid.*, p. 330, c. 2 (825).

[28] The emphasis is on *hostis*, military service, as appears in the next chapter, which applies the same rule to cessions made to lay protectors and mentions only *hostis*. *Publicae functiones* has no necessary connotation of financial payments here or elsewhere, as reference to the *capitulare de functionibus publicis* (*ibid.*, p. 294) will show.

[29] *Ibid.*, p. 330, c. 2. "Quodsi iussa facere neglexerint, licentiam eos distringendi comitibus permittimus per ipsas res, nostra non resistente emunitate."

[30] According to the view that the immunity was primarily and essentially an exemption from public burdens; *ante*, note 14.

[31] For examples of very comprehensive provisions in regard to the immunity of all acquisitions, cf. a grant of 815 for Psalmody, in *H.F.*, vi, 484, and the charter of Charles the Bald cited above in note 18.

reflection of such a change as the rule of 811–813 would seem to indicate. But no trace of such a change is apparent. Never is there a hint in the charters after 811–813 that the grant is less valuable or less inclusive than before. The favorite formulas still contain the statement which applies the immunity to all possessions and acquisitions.[32] The old phrase by which all *functiones publicae* are ceded to the immunist is a normal part of the charter; there is no suggestion that an exception has been made which would affect the *census* of ninety-six *hobae* for one monastery, Kempten. In this period some foundations succeed in writing more privileges into their immunity charter than constitute the normal content of such grants,[33] yet there is no charter which records any attempt to restore the value of the immunity to its old measure by undoing the rule of 811–813. And, finally, though the exact force and meaning of immunity grants sometimes needed and received explanation or reinforcement on certain points, no record has come down to us of misunderstanding on a rule which was so stated as to invite confusion.[34]

In short, the capitulary statement of the rule ignores the immunity, and the immunity charters ignore the rule of the capitularies.[35] Neither set of sources gives any indication that a change in the immunity régime was effected by Charlemagne, and both suggest rather the absence of any innovation. Yet,

[32] Cf. *M.G.H.*, *Formulae*, i, 290, no. 4 (*Formulae Imperiales*): "... ecclesias aut loca vel agros seu reliquas possessiones praedicti monasterii quas moderno tempore iuste et rationabiliter possidere videtur ... quidquid ibidem propter divinum amorem collatum fuit quaeque etiam deinceps in iure ipsius sancti loci voluerit divina pietas augeri."

[33] Cf. the charter of 830 for Saint-Philibert of Hermoutier, which limits the amount of the *annua dona* to be required (*H.F.*, vi, 563), and the charters of two southern monasteries to be discussed later, p. 343.

[34] Explanations of difficulties involved in the application of an immunity are sometimes made; cf. Sickel, *Diplomatik*, p. 376, in reference to the well known charter for Aniane. Prüm in 841 secured a special mandate which apparently emphasizes the freedom of its dependents from all payments, a privilege already secured by immunities: *Mittelrheinisches Urkundenbuch*, i, 95 (Böhmer-Mühlbacher, *Regesten*, i, 438, no. 1083).

[35] Waitz, *op. cit.*, iv, 307–308, suggests that the immunity charters do show a tendency toward a reaction against Lothaire's capitulary of 825 for Italy (*ante*, note 27) by clauses extending the charters very specifically to cover all grants and acquisitions. Aside from the fact that this capitulary was for Italy, the charters which he cites do not meet the issue raised by the rule of 811–813; they neither mention *census de rebus* nor guard specifically against continued payments from lands owing such *census*.

as we have seen, if *census* and *tributum* in the capitularies cited were land-taxes, the rule certainly marked a change, and a change of importance.

Thus the difficulties that are presented are cumulative.[36] They can hardly be explained away by suggestion of carelessness in the style of the capitularies, for there are four different statements of the rule, varying in form and fullness of detail. In addition, there is the silence of scores of immunity charters. Nor would these difficulties be satisfactorily met by assuming an earlier enactment of the rule, lost to us, and perhaps containing the allusion to immunities. Four various repetitions of the original hypothetical rule might be expected to show some signs of this allusion, and, again, there are the immunity charters, which give no evidence, before 814 or after, of a reduction in their scope. Finally, one could hardly maintain that the payments designated as *census* and *tributum* in 811–813 were so infrequent and comparatively unimportant that mention or consideration of the immunity would be unnecessary. In that case the rule itself, repeated four times, would represent inexplicable effort on the part of the government to safeguard negligible revenues.

The way out of the dilemma occasioned by the necessity of relating the rule of 811–813 to the immunity lies in another direction. *Census* and *tributum* in the ninth century may designate survivals of the land-tax, but these terms are also used for payments of a different character and of different origins. Since the later empire, the word *census* has been losing the exclusive connotation of taxation and has been used to denote "payments" of almost any sort, including specifically private rents.[37] *Tributum* has been traveling the same path, though

[36] An additional consideration should perhaps be noted here. The tendency of the Carolingian period was, if anything, to increase the privileges and exemptions pertaining to the immunity, particularly (according to Kroell, pp. 180 ff.) in matters financial. Why, when monasteries were being given exemptions from the onerous *annua dona*, should the government take so much trouble to revoke the effect of the immunity in regard to *census* which were paid largely by the poorer classes, owners of small properties (Lot, p. 118)? By itself, this practice would represent a mere inconsistency — but in combination with these other inconsistencies, the point may have significance.

[37] For one example among many possibilities, cf. the Merovingian use of *census* for rental in the *precaria* formula: *M.G.H., Formulae*, i, 7, no. 7.

perhaps not so rapidly.[38] A Reichenau text [39] gives convincing testimony of the use of *tributum* for rental payments of some sort on royal lands. Louis the Pious grants a *villa*, part of a royal *fiscus*, and at the same time cedes "ad idem monasterium tributa ac servitia quae duo liberi homines . . . pro eo quod super terram fisci nostri manere noscuntur ad partem publicam exinde persolvebant." [40]

Hence there is clearly the possibility that *census* and *tributum* in our capitulary texts may refer to payments due the king from royal lands. Dopsch has so interpreted not only these texts, but most of the charters of the ninth century that refer to *census ad partem regiam*.[41] Following Brunner, he assumes the existence of a large amount of royal or fiscal [42] property (*Zinsgut*) which was not included in the royal manors organized as economic units and exploited by *coloni* and *servi* as half-free tenants. This *Zinsgut* had various origins: in unclaimed ownerless land appropriated by the king and opened up for colonization, in conquered border lands claimed by the king as his

[38] For occurrences in the Merovingian period of *tributum* used in the sense of rent, see some of the references to *tributum* and *tributarii* indexed in Waitz, ii (3rd edition, Berlin, 1882), 2, p. 449. By the ninth century it would certainly be unsafe to deduce from the use of *tributum* the meaning of public revenue, without strong supporting evidence.

[39] *Regesta Badensia*, ed. C. Dümge (Carlsruhe, 1836), p. 68, no. 3 (Böhmer-Mühlbacher, *Regesten*, i, 402, no. 991).

[40] So far as I am aware, this text has not been used as an evidence of tax-payments. The clause beginning *pro eo* makes it almost certain that the text refers to some sort of rental payment on fiscal land. Dahn, viii, 5, p. 124, follows Waitz in this view of the text. For another case of *tributa* paid from royal land, see the charter for Würzburg preserved in a formula: *M.G.H., Formulae*, i, 317.

For a striking instance of *tributa* used to designate private revenues, there is the charter of a count in favor of St. Gall. The count cedes some lands, with certain tenants, and in regard to these tenants stipulates the conditions under which the abbey may levy "servitia vel tributa seu quascumque functiones . . . hoc est ut servi vel ancille conjugati et in mansis manentes tributa et vehenda et opera vel texturas seu functiones quaslibet . . .": *Urkundenbuch der Abtei Sanct Gallen*, ed. H. Wartmann (Zurich, 1863), i, 220, no. 228, of the year 817.

On the meanings of *tributum* and *tributarius* in this period, cf. Waitz, iv, 340, and Dahn, viii, 5, pp. 123–125. The word *publicus*, of course, has long since lost any meaning more definite than "royal."

[41] Dopsch, *Wirtschaftsentwicklung*, i, 193–201.

[42] His attention is devoted to the question of *Zinsgut*, and as far as I can judge, he uses the terms "fiscal" and "royal" interchangeably. Elsewhere he claims that there was a distinction between the royal land proper, derived from the Carolingian family inheritance, and lands acquired by the crown later (*ibid.*, pp. 169–174). How far this distinction was carried into administrative practice is not clear to me.

private possession, and in uncultivated royal land developed by use of *precaria*-leases. The occupants of such land held by some sort of lease, and Brunner suggested [43] that one form of the lease might be that of the hereditary lease illustrated in the formulas of Angers and Tours. The occupant by such tenure had strong proprietary rights, for he could alienate his holding, subject to the payment of the quit-rent. Dopsch follows Brunner in linking much of the royal *Zinsgut* to a tenure of this sort. The fullest evidence on this category of royal land comes from the border regions of the Midi: here fugitive Spaniards were encouraged to settle and their tenure was defined in favorable terms by a series of capitulary enactments.[44] At first these settlers were only possessors with limited rights, unable to sell or hypothecate the holding, and the tenures were hereditary to direct heirs only.[45] By 844 they were permitted to alienate freely to one another.[46] No *census* was charged these fugitive colonists for their holdings.[47] The ruler's desire in this region was not so much to secure revenues from tenants as to repopulate a devastated region by offering attractive terms of tenure, in which the obligations were cut down to practically the ordinary obligations of a subject. Elsewhere, presumably, an economic rent would be charged to such tenures.

From any line of approach, the rule of 811–813 could be interpreted as having reference to tenures of this general type. The terms *census* and *tributum* raise no difficulties, for these terms may designate private revenues from private lands.[48] The context of the rule implies that the land paying a *census* can be alienated. Hereditary leaseholds of royal land could be

[43] Brunner, *op. cit.*, ii, 320, note 32. Dopsch agrees.

[44] The history and character of these settlements have been studied by many writers: cf. P. Imbart de la Tour, "Les colonies agricoles," *Mélanges P. Fabre* (Paris, 1902), pp. 146–171, and for certain aspects falling within the opening years of the reign of Charles the Bald, Lot and Halphen, *Le règne de Charles le Chauve* (Paris, 1909, Bibl. de l'École des Hautes Études), pp. 107–110.

[45] Imbart de la Tour, *loc. cit.*, p. 158.

[46] Lot and Halphen, *Charles le Chauve*, p. 109.

[47] Imbart de la Tour, *loc. cit.*, pp. 161–162.

[48] It would seem highly probable that the Reichenau text, cited above, p. 338, has reference to tenures of this sort on fiscal lands. The king cedes a villa, and then goes out of his way to cede the rents (*tributa et servitia*) of two particular men who occupy royal lands. The passage suggests a tenure above that of the ordinary free tenant.

alienated, at least in some cases; royal consent might be a usual prerequisite, but there is no reason to expect mention of that in the rule of 811–813 which deals with the result, and not with the process, of alienation. As for the main principle incorporated in the capitulary rule, that *census* due from land shall be paid by a new owner, such a principle would be so logical and natural in reference to royal leaseholds that we should assume its existence *a priori*. Brunner has suggested that there is evidence of this principle as applied to fiscal lands in a passage of the *Lex Romana Curiensis*.[49]

Above all, if *census* and *tributum* in these capitulary texts refer primarily to quit-rent payments from hereditary tenures on royal lands the rule no longer presents difficulties when considered in relation to the immunity. At first glance the difficulties would remain, for the immunity apparently frees any lands, however acquired, from any payment to the king. Hence *census* representing payments on royal lands would seem to be revoked by an immunity and the rule of 811–813 would still constitute a change needing explanation. However, some charters of Saint-Bertin indicate that so far as quasi-rents on royal land were concerned the capitulary of Charlemagne would mark no innovation.

According to a confirmation of Clovis III,[50] the monastery of Saint-Bertin had enjoyed the privileges of immunity since the time of Clovis II, who died in 656. If this confirmation is any indication, the immunity was of the usual type.[51] Nevertheless in 682 the abbey saw fit to obtain from Theodoric III a charter containing the following provisions:

> . . . tale beneficium concessimus ut quod infra mero Attiniacense de fisco nostro comparatum habebat aut inantea ad comparandum invenire potuerit praeter illos mansos unde operas carrarias exeunt hoc habeat concessum; et nullos redditus terrae nec nullas functiones publicas eisdem ob hoc exigere nec requirere non debeatis. Qua-

[49] *Op. cit.*, ii, 320, and note 32. *Lex Romana Curiensis*, III, 1, 2: "quicumque homo de res publicas, unde fiscus exit . . . conparare voluerit, non potest ipsam facultatem emere sine tributum aut sine censum. . . ."

[50] Charter of 691, in *M.G.H., Diplomata Regum Francorum*, p. 52, no. 58.

[51] The terms of the confirmation extend the immunity in generous fashion to "quicquid praesenti tempore possidebant aut adhuc inantea ex munere regum vel collato populi seu de comparati aut de quolibet recto adtracto . . . erat additum vel collatum."

propter . . . decernimus . . . ut neque vos neque iuniores seu successores vestri nec quislibet de iudiciaria potestate adcinctus, de ipsis terris, quod infra mero Attiniacense infra ipso fisco nostro memoratus abba comparatum habet aut deinceps ipse vel successores sui aut pars ipsius monasterii comparare potuerint, praeter illos mansos unde carpentas exeunt nullos redditus terrae nec nullas functiones eisdem non requiratis nec exactetis, nisi quicquid exinde ipse abba vel pars monasterii sui Sithiu aut successores sui quod fiscus noster percipere potuerat . . . habeat concessum atque indultum.[52]

This charter contains two main dispositions in favor of the abbey. In the first place, any acquisitions of royal land within the fisc of Attigny are confirmed, whether past or future. The context tells us something as to the nature of the holdings acquired.[53] They are obtained from the actual tenants, and not from the royal proprietor, for in the latter case the exception of a certain type of *mansus* would be unnecessary.[54] Thus the tenure indicated is one which can be alienated, but the alienation seems to depend on royal confirmation. *Coloni* and *servi*, constituting the bulk of the tenantry on a normal estate were hardly envisaged in this charter, for they were not allowed to alienate their tenure.[55] Even a Merovingian ruler would hardly give an abbey permission to dismember a royal fisc by purchase, ordinarily illegal, from such tenants. The text would seem to refer to quit-rent leaseholds of the category suggested by Brunner and Dopsch.[56]

But in the second place, after giving Saint-Bertin blanket

[52] Charter of 682, in *M.G.H., Diplomata Regum Francorum*, p. 48, no. 54.

[53] *Comparare* usually means to acquire by purchase, but seems occasionally to have a more general sense: cf. *M.G.H., Formulae*, i, 65, line 18, "quicquid aut regia conlationem aut privatorum munere vel antecessores abbatis seu et domni lui ibidem est legaliter atquesitum aut conparatum" (Marculf I, no. 35): *ibid.*, p. 216, line 17 (Carolingian): *ibid.*, p. 245, line 36 (8th century). In the Saint-Bertin charter a broader meaning than "to buy" seems possible, and I have used "acquire."

[54] Also such elaborate and specific confirmation would be unnecessary if the king had granted the lands already.

[55] The capitularies affirm this fact in decided fashion, showing thereby that in practice such tenants often violated the rule: *M.G.H., Capitularia*, i, 115, c. 10 (803) and *ibid.*, ii, 323, c. 30 (864).

[56] A parallel situation may be indicated in the Reichenau charter cited before (note 39). After donating a villa, and the *census* paid by two freemen from royal land, the charter cedes possessions "quas liberi homines particulatim de eodem fisco pro sepulturis suis . . . ad idem contulerant vel vendiderunt monasterium." Conceding land already given amounts to confirmation.

permission to receive such lands, the king goes further; "and you shall not demand any rents (*redditus terrae*) or services to the state (*publicas functiones*) from the monastery on account of these lands." This injunction is repeated in a long prohibitory clause, and evidently constitutes the point of major importance to the abbey. Despite the fact that Saint-Bertin had an immunity which exempts its lands from all payments, the abbey desires a charter which frees fiscal lands, acquired from the tenant and not by royal donation, from *redditus terrae* and *publicae functiones*. The inference is clear; the immunity did not affect rents due *ad partem regiam* from leaseholds transferred to the abbey. Otherwise, mere confirmation of possession would have sufficed to attain the desired exemption, or at most we should expect brief mention of the immunity already possessed by the abbey. As it is, the Saint-Bertin charter does not even relate its exemption to the immunity: the word immunity is not mentioned. The exemption is outside the scope of the ordinary immunity, or is an addition thereto.

When the abbey secured general confirmation of its privileges under Theodoric IV in 721, not only was the immunity charter confirmed but a separate confirmation was obtained for the double privilege gained in the charter of 682.[57] The separate confirmation was repeated in 743.[58] These separate renewals fortify the impression already gained, that the exemption of 682 is additional to the immunity privileges.

Thus the charters of Saint-Bertin give us information about leaseholds of royal land, on two points. First, royal permission or at least confirmation is necessary to validate their alienation; secondly, the rent follows the tenure despite an immunity. Further illustration of these two principles can be found in the inadequate sources of the period, particularly in the case of the

[57] *M.G.H., Diplomata Regum Francorum*, p. 80, no. 91, and p. 81, no. 92.

[58] *Ibid.*, p. 86, no. 96. In these later confirmations, the monastery manages to secure the rights concerned not only for the fisc of Attigny but for fiscal lands acquired (or bought) anywhere.

The style of these confirmations makes it quite clear that the grant of exemption from *redditus terrae* is quite separate from the mere confirmation of acquisitions; i.e., the exemption is not a mere consequence of confirming the acquisition.

first. An irregularly phrased immunity charter of 744 [59] includes a provision separated from the immunity proper: "et licentiam habeant terris fiscalis comparandi vel commutandi." A century later we find the same rule underlying a provision in two almost contemporary immunities of Charles the Bald for Southern French monasteries. After the complete formula of immunity these charters provide that holders of land bordering on monastic property (*in congruentia*) or surrounded by monastic territory (*infra fines praefati monasterii*) shall be permitted to sell to the monastery or exchange with it.[60] Kroell interpreted these texts as emphasizing the general privilege of monasteries to acquire ordinary allods,[61] but the limitation of the privilege to particular lands contradicts such an explanation. There is more than a hint here of special circumstance,[62] and given the fact that these monasteries were situated in the regions opened up to settlement by Spanish refugees, I would suggest that the reference is to lands of these refugees, fiscal tenures, hereditary, and alienable within limits.[63]

Then there is a very peculiar charter for an abbey of Münster, granted by Carloman in 769.[64] The privilege recalls rather

[59] *M.G.H., Diplomata Regum Francorum*, p. 87, no. 97. Why is this charter called a confirmation by Pertz, and by Kroell (*op. cit.*, p. 338)?

[60] Charter for Saint-Polycarpe in *H.F.*, viii, 465, and for Saint-Laurent, *ibid.*, p. 457. On these charters, cf. Lot and Halphen, *Charles le Chauve*, pp. 101–102. Both charters were issued in 844. The phrase runs in the second charter: "Hi vero liberi homines qui in congruentia saepefati Monasterii de sua proprietate terras et vineas aut molendina habent, concedimus ut ad idem Monasterium ea vendant vel commutent."

[61] *Op. cit.*, p. 256.

[62] And the hint is confirmed by a further clause found in both charters and constituting likewise an addition to the normal immunity provisions:

"Concedimus etiam ut homines liberi commanentes infra terminos et super terram ejusdem monasterii terras quas per licentiam abbatis et monachorum ex heremo traxerint et incoluerint quiete possideant: ita tamen ut congruum obsequium sicut homines ingenui, exinde eidem monasterio exhibeant" (Saint-Laurent). The principal variation for Saint-Polycarpe's charter is the phrase added "ne eorum ingenuitas vel nobilitas vilescat."

The king is apparently ceding royal rights over unoccupied land colonized and developed by tenants of the monastery. The implication is that there was much of such land in the vicinity of the monastery. Hence the neighbors of the monastery, permitted to sell and to exchange their lands, were liable to be tenants on such lands, already colonized.

[63] By 844 these tenants could alienate freely to one another, but not to outsiders: Lot and Halphen, p. 109.

[64] *M.G.H., Diplomata Karolina*, i, 64, no. 45.

markedly the charter of Saint-Bertin. The ruler accords confirmation of any acquisitions, made in any way, from *homines fiscalis nostros*.[65] Then, separately, as in the case of Saint-Bertin, there follows the injunction to royal agents "ut . . . nullus fiscalis ad parte nostra ei ex hoc non requiratur nisi liceat ei ad partis ipsius monasterie sub emunitatis titulum . . . vivere et resedere. . . ." Here the grant is related to an immunity, but the specific exemption may well refer to rents.[66] There are, unfortunately, no other records of the cell which would allow us to determine whether a regular immunity had been already granted.

The second principle involved in the charters of Saint-Bertin was that fiscal lands continued to owe a *census* when they were alienated by tenants to a church possessing immunity. For the best example of this rule, I submit that we may turn to the oft-cited capitulary regarding lands paying a *census*. Charlemagne's enactment of 811–813 stated that properties owing a royal *census* and given to a church should continue to pay the *census*, and implied, without specifically stating it, that the immunity was no bar. The conclusion seems clear that the principle latent in the charters of Saint-Bertin is embodied in the rule of 811–813. For then and then only does that rule become comprehensible in its style and in its relation to the immunity. Given the precedent exemplified in practice in the Saint-Bertin charters, the capitulary could state its point briefly and without elaboration because it was affirmation of old practice, and not innovation. Reference to the immunity was unnecessary because of the long-existent understanding that fiscal lands, acquired otherwise than through direct royal donation,

[65] Probably those of a certain *fiscus*, "Aufeldus." The phraseology is unusually obscure:

". . . Atque ideo cognuscat magnitudo seu utiletas, quia venerabilis vir Restoino abbate monasteriolo inter duas Pachinas pro nostra mercede de fisco nostro iuxta Aufeldus ex nostra munificencia plena et integra gracia concessimus, talem ei prestetimus beneficium, ut quantumcumque de homines fiscalis nostros conparare aut de qualibet contracto addere aut atraere potuerent hoc nostra serenitas circa ipso monasteriolo ad ipsius Restoino abbate vel suisque successoribus generaliter confirmare deberemus. Praecipientes enim, ut neque vos . . . eidem penitus contrarie non exsistatis nisi quod diximus, quantumcumque [pre]scriptus Restuinus abba . . . attraere [potu]erent, nullus fiscalis ad parte nostra. . . ."

[66] There is no example of the use of *nullus fiscalis* to denote those payments of which collection is prohibited by the immunity.

sale or exchange, did not enjoy the privileges of immunity as concerned their dues. For much the same reason, immunity charters would not be expected to show traces of a rule which had limited the scope of an immunity's exemption since the early days of such privileges. And, finally, the *talis firmitas* demanded in 819 to secure exemption from *tributum de rebus*, and illustrated in the Kempten charter,[67] would have a forerunner in the charter of 682. In short, if the *census de rebus* of our capitulary rule means a payment from fiscal property, that enactment presents no further difficulties in regard to its necessary relation to the immunity. Therefore, if we consider the principle involved and the form in which the principle is stated, the rule of 811–813 would seem to have been written to refer to fiscal revenues from a category of fiscal lands.

This conclusion attains significance when we consider not merely the principle involved but the terminology of the capitulary texts. According to that terminology, the enactment applies to any property which paid a regular *census ad partem regiam* and which could be alienated. The land-tax, in so far as it survived into the Carolingian period, survived as a regular payment, *census* or *tributum*, on land which could of course be alienated. Therefore, such payments would be subject to the application of the rule of 811–813, for the rule makes no exceptions. The implications are apparent.

In the first place, the distinction between a *census* due the king as ruler and a *census* due the king as proprietor was breaking down. The fact is not surprising. The difference between a customary fixed land-tax and a species of quit-rent on hereditary, alienable fiscal holdings is a rather fine one at any time,[68]

[67] *Ante*, p. 334.

The Kempten charter (*ante*, note 23) has a peculiar ending which would seem to support the probability of its application to fiscal lands. After confirming the possession of 96 *hobae* and ceding the *census*, the charter closes with a trace of annoyance: "Ea tamen conditione premissa concessimus, ut nemo prelatorum vel agentium huius monasterii ea in postmodum a quolibet accipiat, unde ad publicum census vel aliqua functio persolvitur." The *aliqua functio* might cut off any gifts from any one, if the king is not referring to fiscal lands, for *functio* covers military service, bridge and road work, etc. (cf. *ante*, note 28). It would seem a reasonable injunction, however, if fiscal lands, of the type that could be alienated, are implied.

[68] Modern writers show considerable uncertainty in the use of terms to designate the payments of tenants on imperial estates in the later Roman Empire.

and the Frankish age was not one to keep fine distinctions. There seems to have been no administrative practice whereby the distinction would be clearly maintained.[69]

But furthermore, this merger of customary land-taxes and royal quit-rents was taking place at the expense of the former. The merger is evidenced by a rule which applied originally to payments on fiscal lands and which is now worded so loosely as to extend its application to any lands making a fiscal payment.[70] Thus, *census de rebus* that once were taxes would be subjected to a rule which is so related to the immunity as to deny these *census* the character of *publicae functiones*, public obligations, within the meaning of the immunity. The rule does not adapt itself to specifically include former land-taxes: the latter would simply be included under the rule by virtue of its terminology.

That the merger should take place along this line does not seem improbable. Had land-taxes remained as a general obligation on all property, they might have resisted a merger tending in such a direction; they might have retained a clear status as *publicae functiones*.[71] But the history of land-taxes after the sixth century is one of steady decline so far as incidence is concerned, even in territory unaffected by immunity charters.

Even in the sixth century the Roman technique of tax-assessment and registration was maintained with only partial success. Public opinion resisted changes in amount or incidence, and tended to regard taxation as exploitation, or "extortion." [72] The rulers themselves seem to have shared in this

[69] Not all fiscal lands were part of organized royal estates and subject to the separate domestic administration of private stewards. The Saint-Bertin charter of 682 referring to lands of a *fiscus* and their payments is addressed as though to a count, like the ordinary immunity charter. Royal lands representing the results of colonization of new territory would seem to fall naturally into the count's sphere of control, and such is the impression gained from the regulations for Spanish fugitives. Cf. Dopsch, *op. cit.*, i, 163; Brunner, *op. cit.*, ii, 98. The point needs further elucidation.

[70] Dopsch evidently holds that these capitularies refer to surviving tax-payments as well as to payments on royal land: cf. *op. cit.*, i, 199, with ii, 351.

[71] As already noted (*ante*, note 5) the Carolingian period retained some conception of what "public obligations" meant.

[72] On this period, cf. Lot, *Impôt foncier*, pp. 83–107.

conception and to have collected taxes with a guilty conscience. By the seventh century the amount of the tax was becoming fixed by custom, probably as an invariable payment due from particular properties.[73]

The next century and a half is marked by a general decline of administration, due to weak kings in a day when the royal power was the mainspring of central institutions, and due further to civil wars and disunion. Sources are almost wholly lacking to inform us on the fate of taxation, but it seems highly probable that the land-tax, reduced to fixed payments from particular properties, must have steadily lost ground even in its restricted form. Without a regular system of land-records such as could hardly last long under the circumstances,[74] the confusion induced by divisions of property, added to the confusion resulting from extension of immunity grants to widely scattered parcels of land, would mean that more and more properties must have escaped the obligation of tax-payment. The immunity charters of the period are suggestive in their silence regarding direct taxes.[75] These charters always contain a prohibitory clause concerning the exercise of financial powers by the *judices*. This clause is often developed to considerable lengths in order to cover all possible exactions on the part of the public officers. Except in a very few doubtful cases, however, direct taxes are never specifically mentioned, and must be either understood, or inferred from a vague phrase of general summary which often concludes the clause.[76] The implication is not necessarily that

[73] For the tendency of the tax to become fixed for each property, even in the late empire, *ibid.*, p. 64, and p. 100. Cf. also Brunner, *op. cit.*, ii, 317–318.

[74] Marculf refers to men who may be registered "in poleptico publico": *M.G.H., Formulae*, i, 56. This is the last trace of fiscal records and it would seem possible that even the registers here mentioned are estate-records of royal manors, rather than tax-records.

[75] A fact noted by Waitz, *op. cit.*, ii, 2, p. 277, note 1.

[76] The phrase in Marculf I, no. 3, is "ad audiendas altercationes ingredire, aut freta de quaslibet causas exigere, nec mansiones aut paratas vel fideiussoraes tollere non presumatis: sed quicquid exinde aut de ingenuis aut de servientibus . . . fiscus aut de freta aut undecumque potuerat sperare" (*M.G.H., Formulae*, i, 43). There are several charters which show similar types of the prohibitory clause: cf. *M.G.H., Diplomata Regum Francorum*, no. 28 (Speyer), no. 95 (Murbach), no. 63 (Saint-Calais).

In other charters, more numerous, the prohibitory clause ends with a final summing-up phrase which may include land-taxes, but only by implication: "ad causas audiendum vel freda undique exigenda seu mansiones aut paratos faciendum vel quascumque

there were no direct taxes,[77] but at least that they were comparatively unimportant.

The Carolingian sources confirm this impression. There are only a half-dozen references in the capitularies to payments that may include surviving land-taxes, and of these, the most important are the various statements of the rule of 811–813.[78] Whatever the *census de rebus* of these texts, they are so worded as to suggest that lands making such payments are only occasional phenomena,[79] perhaps, as Brunner concludes, exceptional.[80] The slight attention given to these *census* by capitularies which can be very voluminous on other points of administration, suggests such a conclusion. As for the charter references to *census*, these are usually found in regions of strong German settlement where the survival of land-taxes is most im-

redibitiones requirendas ingredere," *M.G.H., Diplomata Karolina*, no. 24 (Poitiers). A similar phrase is found in cessions of tolls.

In the Carolingian period, after Charlemagne, many charters are based on a formula found in *M.G.H., Formulae*, i, 290: the prohibitory clause ends "nec ullas redibitiones aut publicas functiones vel illicitas occasiones [requirendas]." No. 28 of the same *Formulae Imperiales* mentions *tributa*: "ad causas iudiciario more audiendas vel freda aut tributa exigenda aut mansiones vel paratas faciendas aut fideiussores tollendos aut homines ipsius ecclesie . . . distringendos nec ullas redibitiones aut illicitas occasione requirendas." Has *tributa* any significance here beyond that of "payment" in the general sense? Its occurrence in this formula and in charters based thereon in the ninth century hardly permits a more definite interpretation.

In the Merovingian series for Arduno, *tributum*, *census* and *lucrum terrenum* occur at various times but these charters may, I believe, have reference to an immunity growing out of cession of a royal villa and the *tributa* may therefore be rents: cf. also Lesne, *op. cit.*, i, 250, note 2. Professor Lot thinks otherwise: "Un grand domaine à l'époque franque," *Cinquentenaire de l'École pratique des Hautes Études* (Paris, 1921), pp. 109 ff.

As for *inferenda*, see the references in Lot, *loc. cit.*, pp. 118–122. On this term, difficulties are met that cannot be considered here. The references are very few, whatever the meaning.

[77] Though this implication is more or less inevitable if one accepts Kroell's view that the key of the immunity is exclusion of the *judex*, and not exemption from taxes.

[78] Assembled by Lot, *Impôt foncier*, pp. 107–108, 118. Beside the capitularies that deal with the rule of 811–813, there are references to *census* in c. 20 of a capitulary of 805 (*M.G.H., Capitularia*, i, 125: "census regalis . . . sive de propria persona hominis, sive de rebus"): in c. 10 of the "Capitulare de justitiis faciendis" of 811–813 (*ibid.*, i, 177, cf. *ante*, note 9): and in a capitulary of 819 of Louis (*ibid.*, i, 295, c. 3). Any of these references could apply as well to payments from royal lands or royal dependants as to surviving taxes.

[79] For an impression of the "occasional" character, see above all c. 10 of the capitulary of 811–813 with its "census nostros perquirant diligenter undecumque antiquitus ad partem regis exire solebant."

[80] Brunner, *op. cit.*, ii, 321: "die grosse Masse des freien Besitztums einem Konigssinse nicht unterworfen war."

probable. Dopsch has referred most of these *census* to payments on royal *Zinsgut*.[81]

Given the survival of land-taxes in the form of fixed customary payments on scattered properties, we can understand the situation indicated by the rule of 811–813. Frankish rulers were receiving regular payments, called *census* or *tributum* from lands which were not part of organized royal manors. These payments had different origins and characters; some were surviving land-taxes, others were hereditary quit-rents. Superficially, from the ruler's stand-point, they would seem very much alike. What more natural than that rulers who could alienate to a monastery all the specifically public obligations of an individual[82] should come to regard these various *census de rebus* as though all were payments from royal land? Or, at least, should treat them as such by affirming an old principle applying to fiscal lands in terms that applied it to any land paying a fixed *census*?[83]

It would be extremely hazardous to claim on the basis of this evidence that surviving land-taxes have become definitely "private" rents by 811–813. No claim of the sort is made here. The writer would go no further than to maintain that on the

[81] Dopsch, *op. cit.*, i, 193–201.

[82] As a Merovingian example, cf. *M.G.H., Diplomata Regum Francorum*, p. 29 no. 30 ("tam freda quam reliquas funcciones"): as a Carolingian, cf. *H.F.*, viii, 366 (Böhmer-Mühlbacher, *Regesten*, no. 1069). This later grant (840) includes military service, guard service, *freda* and whatever five men "ad partem publicam facere consueverant."

For the general attitude of the Frankish rulers towards any revenues, cf. Waitz, *op. cit.*, ii, 2, 327.

[83] At first glance it might seem that a policy (or mistake) of this sort would need explanation to the owners of lands that paid a *census*, once a land-tax. But on further consideration, it is apparent that owners of these lands would not be materially affected by the rule of 811–813. That rule concerned only the fate of the *census* after the land had passed from their hands. The rule involved no injury to their proprietary interests, and its implications would be lost on them.

The monasteries and churches which acquired the lands would be the only losers by this rule, if it involved a change. But the change affected only part of the lands that came to the church owing a royal *census* (i.e., only those on which the *census* were former taxes, for *census* representing quit-rents had always been due, regardless of immunity), and such surviving taxes seem to have rested on the small landholders by this period (Lot, *Impôt foncier*, p. 118). Could the churches be presumed to have kept the distinctions between various *census de rebus* clearly enough to raise trouble on small properties of this sort? Only, it would seem, if the *census* originating in a land-tax were of frequent occurrence.

point of administrative practice covered in this capitulary, such survivals of taxes were being assimilated to *census de rebus* which had not been *publicae functiones* under the meaning of the immunity charter. To what degree the tax had thereby lost its original character is a difficult question, and the answer depends partly on examination of all the Carolingian charter references to *census*.[84] More remains to be done in tracing the further fortunes of the *census*.[85] In the meantime, we have a starting point; the "evolution has only commenced," but we can see the fact of the start and something of the process. In the capitulary enactments concerning *census de rebus* we catch a glimpse of the remnants of the land-tax *en route* to their ultimate destination, the *cens*.

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[84] To see for example whether any of these references show that *census de rebus* still retained the possible meaning of a definite tax. Dopsch has covered the ground rather thoroughly here and has interpreted nearly all of the charter references to *census* as applicable to *Zinsgut* (*op. cit.*, i, 193–201). There remains a St. Gall text which he uses elsewhere to support the claim that direct taxation was extensive and considerable — a difficult matter to prove after his disposition of nine tenths of the charter references. This charter of St. Gall offers peculiar features that cannot be considered here (Wartmann, *Urkundenbuch*, i, 217, no. 226).

[85] Particularly in connection with c. 28 of the *Edictum Pistense*, 864, where the rule of 811–813 is stated in conjunction with new provisions. The text is so long and the questions involved are so many that the points raised must be reserved for separate treatment. It is my opinion that the edict marks a further step in the assimilation of fiscal lands with properties making a payment that was once a land-tax, in that by this edict alienation of any land owing a *census* requires royal permission. Both principles contained in the charter of 682 for Saint-Bertin would thus be involved in this capitulary of 864.

THE USE OF CLASSICS IN THE *FLORES RHETORICI* OF ALBERIC OF MONTE CASSINO

THE intellectual history of the Middle Ages presents no more notable an instance of a true renaissance than that which occurred at Monte Cassino during the eleventh century. After enjoying an enviable reputation in the high Carolingian age, a point of pilgrimage which brought Charlemagne himself to her doors, the home of such men as Paul the Deacon and later the learned Bertharius, the great Benedictine mother-abbey fell victim in the year 883 to the plundering raids of the Saracens. Her church was burned, her treasure lost, including a library of inestimable value, while the monks were obliged to seek refuge first at Teano and later at Capua. Not until the middle of the tenth century was residence in the original home resumed, and only slowly did the abbey begin to recover from the darkness into which she had been plunged. Yet as early as the rule of Abbot Desiderius (1058–1087) the very summit of her material prosperity, her moral and political prestige, and her intellectual vigour was reached. On the side of her cultural life this veritable rebirth was expressed not only by the splendid activity of her *scriptorium* and the building up of a rich library, but as well by the writings of a remarkable group of monks. Among these were the Abbey chronicler, Leo Ostiensis; the mathematician, Pandulf of Capua; the poet, Guaiferius, and the historian of the Normans in south Italy, Amatus; the medical writer Constantine the African; and Alberic the Deacon, who flourished about the year 1075.

Little is known of the life of Alberic. Peter the Deacon, the facile continuator of Leo's excellent chronicle, devotes a chapter of his *De Viris Illustribus Casinensibus* to Alberic, whom he calls a *vir disertissimus ac eruditissimus*.[1] He was a Cardinal

[1] Petrus Diaconus, *De Viris Illustribus Casinensibus*, cap. xxi, in Migne's *Patrologia Latina*, clxxiii, coll. 1032–1033; Peter gives practically the same material in cap. 35, liber III of the *Chronicon Casinense*, *ibid.*, col. 766. A more recent edition of the chronicle is in *M.G.H., Scriptores*, vii, 551–844, edited by W. Wattenbach. Peter's untrust-

Deacon of the Holy Roman See, holding his title from the church of the SS. Quattro Coronati, near which he was later buried. His association with the Roman Curia during those troubled years of the reign of Gregory VII seems, indeed, to have been a close one; to the papal cause he contributed a treatise, *Contra Henricum Imperatorem de Electione Romani Pontificis*, which unfortunately has been lost. And in the trial of Berengar of Tours before the Synod of Rome in 1079, it was Alberic's *De Corpore Domini* that gave the final refutation to the northerner's heretical views, and consigned them, as Peter thought, to eternal oblivion.[2] Peter finally lists a number of Alberic's other writings, chiefly of a religious character: lives of saints, sermons, poetical compositions, and other liturgical works. But the list also includes a group of writings which appear to have been designed as text-books for training in the liberal arts. A *Liber de Dialectica*, a treatise *De Astronomia*, and a *Dialogus in Musica* are mentioned, but not otherwise known. We are more fortunate in the preservation of the *Liber Dictaminum et Salutationum* included in the list, and now known as the *Breviarium de Dictamine*.[3] Two other works of Alberic's, both of a grammatico-rhetorical character (not given notice by Peter) have come down to us: the *Liber de Barbarismo et Soloecismo, Tropo et Schemate*,[4] and the likewise still unpublished *Flores Rhetorici* or *Dictaminum Radii*, as it is entitled in three of the four extant MSS.[5]

worthiness as Abbey archivist has been amply proven by E. Caspar, *Petrus Diaconus und die Monte Cassineser Fälschungen* (Berlin, 1909); cf. Heinz Zatschek, "Zu Petrus Diaconus," in *Neues Archiv*, xlvii, 174–244. As biographer of the illustrious men of Monte Cassino, however, Peter is generally very accurate.

[2] "Omnes assertiones eius destruxit, aeternaeque oblivioni tradidit," *M.G.H., SS.*, vii, 728. Cf. J. Schnitzer, *Berengar von Tours* (Stuttgart, 1892), pp. 104–106. A fragmentary account of the altercation containing Alberic's arguments has been discovered at Monte Cassino, and is now published in the *Codicum Casinensium Manuscriptorum Catalogus*, edited by Don Mauro Inguanez (Monte Cassino, 1928), ii, 1, p. 90.

[3] Found in two MSS. of the twelfth century now at Munich: Cod. monac. lat. 14784, fols. 67–104v. (originally from Saint Emmeram), and Cod. monac. lat. 19411, fols. 57–65 (originally from Tegernsee). A fragment also lies in Pistoia; *Studi Senesi*, ix, 77.

[4] Two MSS. of this work are known, both in Cistercian houses of Austria: Heiligenkreuz 257, saec. xii-xiii, fols. 103–123, and Lilienfeld 98, saec. xiii, fols. 91–111, both listed in *Xenia Bernardina* (Vienna, 1891), ii, 1, p. 185 and p. 512.

[5] Cod. monac. lat. 14784, saec. xii, fols. 44–66v., "Rhetorici Flores"; Cod. Copenhagen, Gl. Kgl. Saml. 3545, saec. xii, fols. 1–11, "Dictaminum Radii"; and, with identi-

It is as author of the *Breviarium de Dictamine*, the earliest formal treatise on the art of epistolary composition, that Alberic is best known to students of mediaeval culture. Indeed, up to the present he has been studied almost exclusively with reference to his position as founder of that new literary genre, the *ars dictaminis*, destined to play such an important part in the educational scheme of the centuries immediately following. Thus, when Rockinger published the *Breviarium de Dictamine* some two generations ago in his collection of *Briefsteller*, he printed only the prologue of the *Flores Rhetorici* and listed the classical authors actually named in the work.[6] Later writers on the history of *dictamen* have likewise passed over the rhetorical treatise as not directly related to the subject they were considering.[7] It has been left to Professor Haskins finally to point out Alberic's broader literary activity and to correct the false impression of his work caused by the fact that Rockinger had omitted in the *Breviarium de Dictamine* the relatively large portion dealing with general grammatical instruction, in which it differs from the works of later *dictatores*.[8]

It is clear from Alberic's prologue that the *Flores Rhetorici* was written as a school-book and designed for the training of his

cal title and closely allied textually to that of Copenhagen, Cod. Breslau, iv, oct. 11, saec. xii (listed in Pertz, *Archiv*, xi, 704). The same title is found in a fourth text of the work, British Museum, Harleian MS. 3969, saec. xiv, fols. 196–204. The present writer is preparing an edition of the work based on these four texts, for publication in the series *Miscellanea Cassinese*, under the editorship of Don Mauro Inguanez, the learned librarian of the Abbey.

[6] L. von Rockinger, *Briefsteller und Formelbücher*, in *Quellen zur Bayerischen und Deutschen Geschichte* (Munich, 1863), ix, 1, pp. 4–5, and pp. 29–46 for the text of the *Breviarium de Dictamine*.

[7] Wattenbach corrected Rockinger's error in assigning the *Rationes Dictandi* to Alberic, *ibid.*, pp. 9–29, showing it to be considerably later and of north Italian provenance; *Deutschlands Geschichtsquellen* (Berlin, 1894), ii, 239. See also A. Bütow, *Die Entwicklung der Mittelalterlichen Briefsteller bis zur Mitte des 12 Jahrhunderts* (Inaug. Dissert., Greifswald, 1908), p. 18.

[8] His article is appearing in a volume of essays edited by Don Mauro Inguanez, celebrating the fourteen-hundredth anniversary of the Abbey (1929). I was kindly allowed, with the writer's consent, to read the article in proof during a most happily recalled sojourn at the Abbey in October, 1928. With regard to the *Flores Rhetorici*, Professor Haskins gives particular attention to the *Versus super Rhetoricam*, the long mythographical section appended to the close of the treatise proper in the Munich MS. alone (fols. 59–66v.), and suggests a possible identification of Alberic with the so-called "Mythographus Vaticanus Tertius." He refers briefly to the subject which this paper is intended to develop further, Alberic's use of the classics.

own pupils in the higher knowledge of grammatical and rhetorical science. "Hitherto," he says, "we have nourished the minds of infants with the milk of learning, so to speak; it now remains to strengthen with its bread their intellects grown to maturity. Hitherto we have trained our auditors in the preliminaries of words; after the preliminaries let the transition be made to the battle of composition. . . . That was for mere boys, this should be for those more advanced in years." [9] That Alberic was a teacher is known from other sources as well, and indeed he furnishes the most positive evidence yet available that there was some sort of a school at Monte Cassino in the eleventh century.[10] The *Breviarium de Dictamine* is dedicated to two of his pupils, and in the same work he refers to his *viva voce* instruction.[11] Another pupil of his, John of Gaeta, is believed to have learned from his master the *cursus* which later as chancellor and then as Pope Gelasius II (1118–1119) he introduced as a permanent feature of the papal chancery.[12] In considering the subject of the classics in Alberic's *Flores Rhetorici* there is found, then, an interest beyond that of

[9] Cod. Copenhagen, Gl. Kgl. Saml. 3545, fol. 1: "Hactenus quasi lacte doctrine mentes infantium rigavimus, super est ut viriles animos suo pane consolidemus. Hactenus verborum proludio auditores nostros exercuimus, post proludium ad pugnam compositionum fiat transitus. . . . Illud pueris, hoc debetur provectis." The Copenhagen MS. which, with the closely similar Breslau MS., seems to furnish a more readable and accurate text than the Munich MS. will be followed for all citations from Alberic's work. The title of the Munich MS. will be adhered to, however, as that most commonly known.

[10] On the problem of the existence of a school at Monte Cassino in the eleventh century, the best treatment is found in G. Manacorda, *Storia della Scuola in Italia* (Milan, 1913), i, 1, pp. 103–105. He interprets the well-known passage in Peter Damiani's *Epistola* 17 (liber II) to mean only that there were no schools of boys, that is the youthful *oblati*, but that there may well have been a school for the young monks, *giovanetti monaci*. W. Giesebrecht held a different view (*De Litterarum Studiis apud Italos Primi Medii Aevi Saeculis* (Berlin, 1845), p. 14) arguing that Peter referred only to the absence of outside schools, and did not mean that there was no school for *pueri oblati*. Neither of them has noted that the *Flores Rhetorici*, while written for mature students, definitely states that Alberic has already given elementary grammatical instruction to mere boys.

[11] "Albericus karissimis fratribus in Christo Gundfrido et Quidone benivolentiae magistralis amore," Rockinger, *op. cit.*, p. 29; "ea quae iam viva voce nobis referentibus edidicistis," *ibid.*, p. 30.

[12] R. L. Poole, *Lectures on the History of the Papal Chancery* (Cambridge, 1915), p. 85, and Peter the Deacon, *De Viris Illust.*, cap. xlv (*P. L.*, clxxiii, col. 1046): "Gelasius . . . parvulus in Casino sub Desiderio abbate beato Benedicto oblatus, et ab Alberico philosopho edoctus."

ascertaining the extent of the author's own knowledge of ancient writings. It is revealed as well how an eleventh-century monastic teacher directs the attention of his pupils to the writings of the *auctores*, holding them up as models of style and commending their study as an essential and integral part of their training in the art of writing.

Alberic calls this advanced doctrine which he is offering his pupils a "new nectar." "Let it not flow away," he cries, "but let the mind, touched by the rays of Phoebus, bring forth flowers." He then puts himself forward as a candidate for the palm, to the stupefaction of his adversaries, promising that here shall flourish both integrity and utility.[13] Actually, the *Flores Rhetorici* resolves itself into a treatment of the *proprietates dicendi* to be observed and the *colores* to be employed by those who would attain to the name of a writer of the first order, a *scriptor*. For a *scriptor*, it develops, is one who is able to observe the proper forms of rhetorical construction in the composition and adornment of his work, avoiding the pitfalls of the various *vicia* or faults, and using skilfully the devices or *colores* which will produce the desired effect on the *auditor* or *lector*. Thus, in introducing the subject of the *proemium*, Alberic says: "Whoever sets out to adorn his work should observe in his prologue these *proprietates*, these *colores*," and he then gives various rules to be followed with respect to the divisions of rhetoric and the forms of each.[14] A *metaphor* is a *color* "which we might indeed call a ray since . . . it penetrates, reveals, makes luminous those things which are obscure."[15] How completely Alberic regards his work as one dealing with the subject of the *colores* of rhetoric is revealed when, toward the close, he says: "But lest we should tarry too long, let us

[13] Cod. Copenhagen, 3545, fol. 1: ". . . novum nectar nusquam effluat, radio phebi tacta flores mens pariat. Hic Albericus evolat, hic palmam sperat, hic adversarius sileat, obmutescat, miretur, obstupeat, hic honestas, hic viget utilitas."

[14] *Ibid.*, fol. 1: "Quisquis opus suum parat prologo decorare . . . hos colores has observet proprietates."

[15] *Ibid.*, fol. 6v.: "vero metaphore color quem radium dicimus et vere radium quippe . . . obscura metaphore penetrat, detegit, illustrat." He once even speaks of "flores colorum": *ibid.*, fol. 6, an expression used later by Alain de Lille in his *Anticlaudianus*: "Adsunt rhetoricae cultus floresque colorum," as given in C. S. Baldwin, *Medieval Rhetoric and Poetic* (New York, 1928), p. 174.

hasten to the conclusion of the work, let us run over the remaining *colores*." And at the *finis* of the treatise are found these stern words of warning to literary candidates: "These then are the flowers, these the *colores* useful in the art of writing well; whoever observes them may presume to rank among *scriptores*, but he who is ignorant of them, let him not assume the name of *scriptor*!" [16] By Alberic, then, as by Thierry of Chartres or other mediaeval writers on the liberal arts, the function of rhetoric was conceived as essentially that of adornment, ornament in writing.[17] It is an art to know and to practice these rules, and one for which only those already well grounded in the elements of grammar are fitted.

The part played by classical authors in the development of Alberic's subject may now be considered. As he advances his rhetorical principles or devices, he constantly illustrates their use in the writings of the ancient authors. The *auctores* supply the models of good style which an aspiring writer may imitate and should know, for they are the true "authorities." "A principle lacking in *exempla* falters," Alberic once tersely expresses it.[18] In discussing the subject of the *exordium*, for instance, he makes the point that its *colores* consist in those things which secure the goodwill, the docility, and the attention of the reader. "In order, however, that we may confirm and strengthen these rules by *exempla*, let the authority of Sallust be brought before us: 'Quod enim humanum studium a brutis animalibus seponit quod bona tam anime quam corporis divi-

[16] *Ibid.*, fol. 11v.: "Ne ergo diutius immoremur ad finem operis tendamus, reliquos colores transcurramus." Fol. 12v.: "Hii sunt flores, hii sunt utilimi dictandi colores, quos siquis notat scriptoribus accedere praesumat, qui nescit nomen non usurpet scriptoris."

[17] Alberic's contemporary, Onulf of Speier, wrote a work in prose and verse entitled *Colores Rhetorici*, drawn chiefly from the fourth book of the *Auctor ad Herrenium*, but with some classical quotations; cf. W. Wattenbach, "Magister Onulf von Speier," in *Sitzungsb. Akad. Wissensch. Berlin* (1894), 361–386, and M. Manitius, "Zu Onulf's von Speier *Rhetorici Colores*," *Neues Archiv*, xx, 441–443. J. B. Fletcher, in commenting on the use of the term *color* by Dante ("True meaning of Dante's *Vita Nuova*," *Romanic Review*, xi, 2, p. 120), urges the need of a study of the change in its meaning since classical times. A. Clerval in his *Les écoles de Chartres au moyen-âge* (Paris, 1895), pp. 221 ff., discusses Thierry's *Eptateuchon* or encyclopaedia of the seven liberal arts. Cf. Baldwin, *op. cit.*, p. 153.

[18] Codex Copenhagen 3545, fol. 3v.: "Exemplis vidua nutat ratio."

dendo seiungit . . .' Subtly in this way he commends *studium*, and in commending arouses attention. If you wish to secure goodwill," Alberic then urges his pupils, "you will observe those same precepts that make for attention." [19]

Not always, however, are the illustrations drawn from the ancients; Alberic not infrequently introduces those of his own making. "Let us rely on *exempla* of our own as well as upon those of the *auctores*," he says in concluding his treatment of the divisions of rhetoric.[20] After giving a long passage typical of his own florid style, he continues in a way that shows how deferential he nevertheless remains toward classical writers: "You have therefore an *exemplum* from us of how you may set forth and interweave the divisions named above; reassure yourselves also from the writings of the *auctores*. Sallust observes a similar order, speaking thus: 'P[atres] c[onscripti], Micipsa pater meus moriens mihi praecepit . . .'" the quotation continuing through the whole of *Bellum Iugurthinum*, xiv, 1–5 and 25.[21] A similar instance of Alberic's willingness to place his own writing beside that of a classical author as a model of style is naïvely expressed in the *Breviarium de Dictamine*, where two verses are given in immediate succession. "The first verse is Horace's, the second mine," Alberic calmly points out.[22]

Quotations from eleven different ancient authors are found in the *Flores Rhetorici*. Virgil quite naturally assumes first place among the poets: there are a dozen quotations from the *Aeneid* scattered through the work and several from the *Bucolics*. Ovid's *Metamorphoses* is used hardly half as many

[19] *Ibid.*, fol. 2v.: "Colores eius dico quibus capitur benivolentia, docilitas, attentio. . . . Ut ergo dicta confirmemus exemplis adducatur in medium auctoritas Salustii." The passage only roughly follows *Bellum Iugurthinum*, ii, 1. "Subtiliter namque per hoc studium commendat, commendando attentionem generat. Si benivolentiam parere volueris, eadem illa quae attentioni conveniunt observabis."

[20] *Ibid.*, fol. 3v.: "Nitamur tum nostris tum auctorum exemplis."

[21] *Ibid.*, fol. 4: "Habes ergo exemplum a nobis quomodo supradictas partitiones proponas vel inmiteris; auctorum etiam te confirmes escriptis. Sallustius talem supradictorum servat ordinem, sic dicens."

[22] Rockinger, *op. cit.*, p. 45. The two verses run:

"In silvam ne ligna feras, nec in equore pisces."
(cf. Horace, *Serm.*, i, 10, v. 34; ii, 3, v. 235).
"Fornaci ne flare velis, iubar aut dare soli."

Then Alberic adds: "Prior versus est Oracii, secundus meus."

times. There are four long passages from the *Pharsalia* of Lucan, and one short one. The five citations of Terence are drawn from several of his plays. There are but two quotations from either Persius or Horace. Ennius is not named in the single passage from him, and Boethius is met with but once. Sallust is Alberic's favorite prose writer; the six quotations from the *Bellum Iugurthinum* and the *Coniuratio Catilinae* are long ones and prominently placed. The three from Cicero on the contrary are brief, although he is referred to on several other occasions. The first lines of a sermon ascribed to Augustine are also given.[23]

It is not to be assumed, however, that all of these quotations were taken directly from the works of the classical authors concerned. Alberic drew heavily on the first two books of Isidore of Seville's *Etymologiae* for his doctrine, and not infrequently takes over the identical quotations used by the great encyclopaedist in illustrating the same grammatical or rhetorical point.[24] The citations from Persius, for instance, are precisely those used by Isidore (*Etym.*, i, cap. 36, 17) to describe a principle similar to what Alberic calls *repeticio*. The Ennius passage is explained in the same way, as well as all of those

[23] The specific quotations from each author may be recorded at this point. Their position in the body of Alberic's text can be gathered from the summary outline of the *Flores Rhetorici* appended at the close of this paper.

Virgil, *Aeneid*, i, 1, 263, 546, 597, 605, 607, 609, 614; ii, 289, 293–94; iii, 56–57; iv, 305–306, 381, 596–597, 660; x, 149. Idem, *Bucolics*, iii, 25; iv, 60; viii, 55–56.

Ovid, *Metam.*, i, 19, 480–482, 505; ii, 580–581, 584–585; iv, 306.

Lucan, *Phars.*, i, 8, 151, 155–157; iv, 373–378, 380–381; v, 310–316; vii, 588–593.

Terence, *Heaut.*, prol., vv. 28, 35, 48–50; *Phorm.*, i, 2, v. 53; *And.*, i, 1, vv. 30, 127.

Persius, *Sat.*, i, 206; iii, 84.

Horace, *Sat.*, ii, 3, v. 321; *Epist.*, iii, vv. 270–272.

Ennius, *Ann.*, vi, frag. 6 (ed. E. M. Steuart, Cambridge, 1925).

Boethius, *De Consol. Philos.*, i, 1–2.

Sallust, *Bellum Iug.*, ii, 1; ix, 2; xiv, 1–5, 25. Idem, *Con. Cat.*, xiii, 1; xliv, 5; lii, 39.

Cicero, *In Catil.*, i, 27; ii, 1, §1; *Pro Milone*, 41.

The Augustine passage, apparently the beginning of the sermon, is not found in the standard editions of his works, nor in M. Vatasso, *Initia Patrum Aliorumque SS. Eccles. Lat.* (Rome, 1906). It reads (Cod. Copenhagen 3545, fol. 1): "Habemus loqui vestre fratres caritati, quid salutem vulneret, quid vitam generet, quid sequens vivendo surgas, quid moriendo procumbas." Alberic is illustrating the proper forms of *exordium*.

[24] The instances in which this has occurred are noted in the outline below. Reference is to W. M. Lindsay's edition of the *Etymologiae* (Oxford, 1911, 2 vols.). The Monte Cassino Library had copies of Isidore's work in Alberic's day: one still lies there, Cod. Cas. 320, saec. ix–x, ordinary miniscule; while Cava 2, a. 779–797, Beneventan, originated there; E. A. Lowe, *The Beneventan Script* (Oxford, 1914), pp. 70, 337.

from Cicero. In short, the *Flores Rhetorici* furnishes an instance of that particular element in the classical culture of the Middle Ages on which Professor Haskins has commented, namely, the gleaning of quotations from grammars or *florilegia*.[25] Yet in some of the very cases where Alberic has seemingly drawn from the *Etymologiae*, quotations from an extraneous source are freely interspersed.[26] Considering this partial dependence on Isidore for his classical material, one would expect to find that he had used other standard grammatical or rhetorical texts in the same way. His *De Barbarismo et Soloecismo* is "edited," according to the prologue, from Donatus, Cassiodorus, Bede, and certain others.[27] In actual fact, however, there is only one instance where a quotation found in the *Flores Rhetorici* corresponds to those in Donatus or the *Rhetores Minores* of Halm's collection other than Isidore, while the few verses of Virgil and the one of Lucan found in Priscian there illustrate completely different points.[28]

Granting that Alberic borrowed some of his classical quotations at second hand, so to speak, the position of the ancient authors in the *Flores Rhetorici* remains a very strong one. There can be little doubt that he went straight to the works of certain of them. This is preëminently the case with Sallust, who is regarded as the foremost among prose stylists. Virgil and Terence are referred to in general terms that bespeak Alberic's intimacy with them, and the Desiderian catalogue of books copied at the Abbey in Alberic's day includes the names of both of these authors.[29] Lucan, too, seems to have

[25] C. H. Haskins, *Studies in the History of Mediaeval Science* (Cambridge, 1924), p. 356, and *The Renaissance of the Twelfth Century* (Cambridge, 1927), p. 113.

[26] Where Alberic treats *repeticio*, for instance, the two quotations from Virgil are derived from *Etym.*, i, cap. 36, 7 and 10; but between them are found a number of verses from Ovid not used by Isidore. Again, of the verses illustrating *similitudo*, Lucan, *Phars.*, i, 8, 151, 155–157, only verse 151 is in the *Etymologiae*.

[27] Codex Heiligenkreuz, 257, fol. 103: "Auctores Donatus Cassiodorus Beda ordinavit Albericus monachus. Liber de Barbarismo . . . ab Alberico editus ubi quaedam ex aliis sunt collecta."

[28] There is more reason for thinking that Alberic may have used the *Auctor ad Herennium*, which was copied at the Abbey about the time Alberic was writing (Lowe, *op. cit.*, pp. 70, 339), now at Florence (Bibl. Laurent, LI. 10). Its terminology is frequently met with in the *Flores Rhetorici*, but it would be difficult to ascertain whether Alberic knew the work at first hand, or only by way of some intermediary.

[29] In considering the *exordium*, Alberic discusses the device of reserving certain things

been well known to Alberic. The long quotation from the *Pharsalia* illustrating a device in which the element of emotion predominates is preceded by the remark: "In these *colores* Lucan paints most magnificently; in order that they may be more clear let us submit certain *exempla*." [30] Here one feels that Alberic had ranged over various authors' works before selecting this particular passage to exemplify his point.

It may finally be emphasized that the significance of the classics in the *Flores Rhetorici* is enhanced in no small measure by the fact that Alberic was writing as a teacher of the art which he himself practiced. By its very profusion of illustrations from ancient writings held up as models of style the treatise directs the attention of its readers to the classics. But more than that Alberic seems on occasion to be urging his followers to reach out beyond those "flowers" which they may find in his work and, if careful not to carry imitation too far, to exercise themselves by a reading of the actual works of the ancients. So after his plentiful illustrations from Virgil and Ovid of *repeticio* he says: "But why give more? All books, all worthy books, I say, abound in this species of *color*. Wherefore look into this manner more diligently, practice what you have looked into, but control your practice with the rein of moderation; control it, I say, lest the likeness of the mother's features cause a weariness of its own." [31] And again, expressing fear that he has himself adduced too many illustrations from the ancients, he says: "If you seek further *exempla*, the authority of the *scriptores* will

for future disposition in their proper place. Then he adds (Cod. Copenhagen 3545, fol. 2): "Neu desint exempla, hac Virgilius emicat, Terentius redundat." The catalogue of codices copied at Monte Cassino under Desiderius, some seventy in number, is given in the *Chronicon*, iii, cap. 63 (ed. Wattenbach, p. 746) and conveniently by Lowe, *op. cit.*, pp. 80–81. With regard to Sallust, it may be noted here that Alberic also quotes him in the *Breviarium de dictamine*, though the catalogues do not mention him. A Horace is also mentioned in the Desiderian catalogue, and Ovid's *Fasti*.

[30] Cod. Copenhagen 3545, fol. 8: "His coloribus se maxime Lucanus pingit. Que ut magis luceant quaedam exempla subiciamus." A twelfth-century catalogue of codices at Monte Cassino includes a Lucan; G. Becker, *Catalogi Bibliothecarum Antiqui* (Bonn, 1885), no. 119.

[31] Cod. Copenhagen 3545, fol. 5v.: "Quid plura? Omnes libri, libri inquam honesti, redundant hac specie coloris. Quare diligentius hunc modum inspicias, inspectum exerceas, exercitum freno moderationis regas, regas inquam ne frequentius scriptis incurrat, ne similitudo matris facietatis suum ingerat tedium animis."

copiously supply you." [32] Such passages suggest the close resemblance of Alberic's methods of teaching to those of the northern *grammaticus*, Bernard, in the episcopal school of Chartres early in the next century. John of Salisbury has described Bernard's emphasis on instruction in the handling of grammatical figures, rhetorical *colores*, and the proprieties of speech, the elements which constitute also the main theme of Alberic's teaching as revealed in the *Flores Rhetorici*. And, by both, the reading of the *auctores* is regarded as an integral part of their pupils' literary training, though each warns against carrying imitation to excess.[33]

In commenting on the classical learning of two other South Italian monks of the eleventh century, Alfanus of Salerno and Guaiferius of Monte Cassino, Manitius has praised the grammatical purity of their writing and noted the strong rhetorical element in their works.[34] These same factors in the intellectual renaissance at Monte Cassino are revealed in the *Flores Rhetorici* of Alberic the Deacon. His work reflects both that strong grammatico-rhetorical tradition and that revival of interest in the classics at the Abbey which are so clearly seen in the activity of her *scriptorium*.[35] And it furthermore suggests the interdependence of these elements of Cassinese culture; for in advancing the doctrine which is designed to teach the art of writing well, Alberic holds up the study of the classics as an essential part of the training of a *scriptor*.

[32] *Ibid.*, fol. 8v.: "Verum ne producta exempla generent tedium, ad reliquam dirigamus transitum. Exempla reliquorum si queras copiose scriptorum suggerit auctoritas."

[33] John of Salisbury's description of Bernard's teaching is found in *Metalogicus*, i, cap. 24 (Migne, *P.L.*, cixc, coll. 853–856); this text is conveniently given in Ed. Faral, *Les arts poétiques du xii^e et du xiii^e siècle* (Paris, 1924), pp. 99–100. The passages bringing out the similarity to Alberic's teaching read: "... in auctorum lectione quid simplex esset et ad imaginem regulae positum ostendebat; figuras grammaticae, colores rhetoricos, cavillationes sophismatum ... Et quia splendor orationis aut a proprietate est ... aut a translatione ... Quibus autem indicebantur praeexercitamina puerorum in prosis aut poematibus imitandis, poetas aut oratores proponebat et eorum jubebat vestigia imitari ..."

[34] M. Manitius, *Geschichte der lateinischen Literatur des Mittelalters* (Munich, 1923), ii, 487.

[35] Lowe, *op. cit.*, pp. 12, 17–18, *et passim*, and Don Mauro Inguanez, "L'opere conservatrice degli Amanuensi Cassinesi," in *l'Italia che Scrive* (Aug., 1928), p. 205, and separately published, Monte Cassino, 1928.

ANALYSIS OF *FLORES RHETORICI*

The following summary analysis of the *Flores Rhetorici* is designed to afford some idea of the ground covered by Alberic, and to indicate the position of the classical quotations (listed by authors in footnote 23) in the progressing theme of the work. The instances where a quotation is quite clearly taken from Isidore of Seville's *Etymologiae* are noted. Folio numbers refer to cod. Copenhagen Gl. Kgl. Saml. 3545.

I. Prologue: introduction of subject; author's promise of *honestas* and *utilitas*.

II. *Colores* and *proprietates* of the *proemium* (fols. 1–2v.): a) It should be drawn from and give a foretaste of the subject matter of the *historia narrationis*. *Exempla*: Augustine, prologue of sermon; Virgil, *Aeneid*, i, 1; Boethius, *De Cons. Phil.*, i, 1. b) Reservation of certain things for later disposition in their proper place, an art in which Virgil and Terence shine. c) Use of *digressio*, whence light will be derived for what follows, a manner followed by Sallust.

III. Divisions of rhetoric (fols. 2v.–4v.): a) *Exordium*, or *proemium*. Its *colores* consist in securing the goodwill and attention of the *lector* or *auditor* by promising *honestas* and *utilitas* (*exemplum*: Sallust, *Iug.*, ii, 1), or by referring to one's own worthiness (*exemplum*: Terence, *Heaut.*, prol., 35, 48–50). b) *Narratio*. c) *Argumentatio*. d) *Conclusio*. Excursus on forms of *salutatio*. *Exempla* of forms of divisions of rhetoric: 1) *stilus mixtus*: Alberic's own, followed by Sallust, *Iug.*, xiv, 1–5, 25. 2) *stilus simplex*: *Iug.*, ix, 2; *Cat.*, xliv, 5.

IV. *Vicia* which spoil the *proprietas* and extinguish the splendor of the *oratio* (fols. 4v.–5): *barbarismus*, *soloecismus*, *acirologia*, *cacenphaton*, *pleonasmos* (*exemplum*: Virgil, *Aeneid*, i, 546–547, from Isidore, *Etym.*, i, cap. 9), *tapinosis*, *amphibologia* (*exempla*: Ennius, *Ann.*, vi, 6, and Virgil, *Aeneid*, i, 263, both from *Etym.*, i, cap. 34, 13–14).

V. *Scemata* or *figurae* which observe *proprietas* and adorn the *oratio*. Various *figurae verborum* are first taken up: *repeticio* under its manifold forms is illustrated by three passages from Virgil (*Aeneid*, x, 149; iv, 660; *Bucol.*, viii, 55–56), and two from Persius (*Sat.*, iii, 84; v, 79–81); all of these are found in *Etym.*, i, cap. 36, 4–17. Not in Isidore, however, are the verses from Ovid, *Met.*, i, 480–481, 504–505; ii, 580–581, 584–585; iv, 306. The verse from Ovid illustrating *anthiteton* (*Met.*, i, 19) is however from *Etym.*, i, cap. 36, 21, as also Cicero, *In Catil.*,

ii, 1, §1, the *exemplum* for *solucio*. Terence, *Phorm.*, i, 2, v. 53, and *Andria*, i, 1, v. 127, are also used for this *figura*.

VI. *Figurae verborum* treated under the heading of *tropi* (fols. 6–7v.): *metaphora* (as in *Etym.*, i, cap. 37, 2 *et seq.*), *similitudo*, *circumscriptio*, *emphasis*, *attenuatio* (*exemplum*: Virgil, *Bucol.*, iii, 25).

VII. *Figurae sententiarum* (fols. 7v.–12v.): *ethopeia* (cf. *Etym.*, ii, cap. 14, 1); a *color* of painting in which the element of emotion or of indignation predominates, illustrated from Lucan, *Pharsalia*, vii, 588–593; v, 310–316; iv, 373–378, 380–381, and from the *Aeneid*, iii, 56–57 (this last only from *Etym.*, ii, cap. 21, 16); *persuasio* and *dissuasio* (*exempla*: Virgil, *Aeneid*, ii, 289, 293–294; iv, 305–306, 381); *laus et vituperatio* (*exempla*: Virgil, *Aeneid*, i, 597, 605, 607–609, as in *Etym.*, ii, cap. 4, 6); *collectio* and *prosopopeia*, illustrated from Cicero, *Pro Mil.*, 41, and *In Cat.*, i, 27, both from *Etym.*, ii, capp. 9, 13, and 13, 1; *brevitas* and *multiplicitas*; *conparatio* or *similitudo*, as in Lucan, *Phars.*, i, 8, 151, 155–157 (see above, note 26).

VIII. Consideration of remaining *colores* (fols. 11v.–12v.): *conversio* or *apostropha* (*exempla*: Virgil, *Aeneid*, iv, 596–597, and Sallust, *Con. Cat.*, lii, 39; xiii, 1); *executio*; *postpositio* (*exemplum*: Virgil, *Bucol.*, iv, 60); *correctio* (*exemplum*: Terence, *And.*, i, 1, v. 30); *aliena vocabula* (*exemplum*: Horace, *Epist.*, ii, 3, vv. 270–272).

H. M. Willard

WILLIAM OF THE WHITE HANDS AND MEN OF LETTERS

William of the White Hands, archbishop of Rheims from 1176 to 1202, has long been acclaimed one of the most distinguished patrons of his age. Writers no less celebrated than Walter of Châtillon, Peter of Poitiers, and Peter Comestor dedicated works to him. Yet the archbishop's relation to the world of learning as a whole has scarcely received the attention that these names would suggest it might deserve. An exhaustive and critical catalogue of the scholars or literary men who received encouragement or protection from William has never been attempted. Nor have we been sufficiently informed of the extent and nature of his interests in learning and literature to venture an opinion as to his true position in the intellectual history of his age. Even a recent biographer all but neglects William the patron in favor of William the prelate and politician.[1]

The family of Blois-Champagne was one of the most important of feudal France. William's three elder brothers, Henry, Theobald, and Stephen, were counts of Champagne, Blois-Chartres, and Sancerre respectively. Adela, one of numerous sisters, became the third queen of Louis VII, to whom she bore Philip Augustus. Few families could boast of greater devotion to learning and literature. Henry of Champagne not only befriended scholars but was also an enthusiastic student of theology and philosophy.[2] His wife, Marie, a daughter of Louis VII and Eleanor of Aquitaine, was the inspiration of a

[1] J. Mathorez, *Guillaume aux Blanches Mains, Evêque de Chartres* (Chartres, 1912), in the series, *Revue des archives du diocèse de Chartres.* Other accounts of William are given by Dom M.-J.-J. Brial, *Histoire littéraire de la France,* xv, 95 ff.; G. Marlot, *Histoire de la ville, cité et université de Reims* (Rheims, 1843–46), iii, 452 ff.; *Gallia Christiana,* ix, 95 ff.; H. d'Arbois de Jubainville, *Histoire des ducs et des comtes de Champagne* (Paris, 1859–66), ii, 404–406, iii, 185; A. Clerval, *Les écoles de Chartres au moyen âge* (Paris, 1895), pp. 274 ff. William's political activities may be traced through the volumes of A. Cartellieri's *Philipp II. August König von Frankreich* (Leipzig and Paris, 1899–1910).

[2] D'Arbois de Jubainville, iii, ch. v.

group of courtly writers to which Chrétien de Troyes belonged.[3] Theobald V of Blois-Chartres appears to have been a patron of the poet, Walter of Arras.[4] Moreover, the family produced an excellent lyric poet of its own in Henry of Champagne's grandson, the corpulent Theobald of the days of Queen Blanche of Castille and the minority of Louis IX.[5]

William himself, like many another younger son, embarked on his career as an ecclesiastic at an early age. His advancement was rapid, owing, no doubt, to his influential connections. In 1165, when scarcely thirty, he was elected bishop of Chartres. Three years later he became archbishop of Sens. Nevertheless he was permitted to retain the see of Chartres together with his new dignity. This pluralism was terminated in 1176 when he surrendered both Sens and Chartres to become archbishop of Rheims. In the meantime Rome had not overlooked him, Alexander III having appointed him legate in 1169. Ten years later he made him cardinal-priest of St. Sabina.[6]

William's education appears to have been a careful one, though the details are obscure. It is sometimes asserted that he studied under Peter Lombard at Paris, but reliable evidence to that effect is lacking.[7] Nor is there much reason for believing that he himself composed a refutation of this master's nihilistic Christology.[8] In general, there is little subjective material for a study of William's intellect. For most of our information we must accept the testimony of his contemporaries.

[3] An account of Marie is given by E. Winkler, "Französische Dichter des Mittelalters: II, Marie de France," in *Sitzungsberichte der Kaiserlichen Akademie der Wissenschaften* (Vienna), *phil.-hist. Klasse*, clxxxviii (1918), no. 3. Also reprinted separately, Vienna, 1918. Winkler attempts to identify Marie of France with Marie of Champagne. See Lucien Foulet's review of Winkler in *Romania*, xlix, 129–131.

[4] W. Foerster (editor), *Ille und Galeron von Walter von Arras* (Halle a. S., 1891), Einleitung, pp. v ff.

[5] See *Hist. lit.*, xxiii, 765–804 (P. Paris).

[6] These facts are given by Mathorez, pp. 1–24.

[7] Both Mathorez (p. 8) and Clerval (p. 275) state this but without giving confirmatory evidence of a satisfactory kind. The important part that William played in the condemnation of the Lombard's nihilistic doctrines is, no doubt, largely responsible for the idea. See J. de Ghellinck, *Le mouvement théologique du XII^e siècle* (Paris, 1914), pp. 150 ff.

[8] Konrad Gesner in his *Bibliotheca* (Zurich, 1574), p. 274, credits William with such a work. As far as I know, however, no manuscript of it still exists. I suspect that the ascription is false and that it is based on nothing more than William's part in the nihilistic controversy.

One of these was the celebrated canonist and letter-writer, Stephen of Tournai.[9] The fact that over fifty of Stephen's surviving letters are addressed to William is sufficient indication of the intimacy of the two men. While most of these deal exclusively with ecclesiastical affairs, several prove the archbishop's solicitude for scholars. In one, Stephen calls William's attention to the sad predicament of a student, who, because of his attendance at school and consequent absence from home, is threatened with the loss of his paternal heritage by ignorant and prejudiced judges.[10] Needless to say, the dangers of such a precedent are duly emphasized. We know nothing about a Master Hugh of Novaria who is made the subject of a second letter.[11] A third, of 1191–1192, seeks the archbishop's support for the celebrated theologian, Peter Cantor, who has been elected to the vacant see of Tournai.[12] Perhaps the most interesting letter of all, however, is one written in behalf of a Master Simon, *viro inter scholas cathedras egregio*.[13] Part of this merits quotation:

Graciosum et commendabilem faciunt eum hinc auctoritas morum, hinc pericia litterarum. Tales consuevit illustris clementia vestra vocare, diligere, promovere. Clamat hoc quasi ab ortu usque ad occasum totus orbis, cum Etruscos et Ligures suos Ytalia, Britannia major Anglicos, utraque Gallia Belgas et Celticos in curia vestra videant aut onerari divitiis, aut dignitatibus honorari. Implentur ad cumulum glorie vestre, qui veniunt ab oriente et occidente, et recumbunt in sinum vestrum. . . .

[9] J. F. von Schulte has published Stephen's commentary on Gratian, *Die Summa des Stephanus Tornacensis* (Giessen, 1891). Stephen's letters were published by Migne, *Patrologia Latina*, ccxi, and by Desilve, in 1893. Several have been reëdited by H. Denifle and A. Chatelain, *Chartularium Universitatis Parisiensis* (Paris, 1898), i, 42–48.

[10] Migne, ccxi, no. xiii.

[11] *Ibid.*, no. cv. This may have been Master Hugh of Novaria whose claims to a house were recognized, between 24 April, 1166, and 8 April, 1167, by a decision of Maurice, bishop of Paris. They were also confirmed by Hugh, abbot of Saint-Germain-des-Prés (R. de Lasteyerie, *Cartulaire général de Paris* (Paris, 1887), i, nos. 461 and 462). A charter issued in 1189 by Hervé, dean of Paris, is concerned with the will of "Magistri Hugonis Navariensis." See B. Guérard, *Cartvlaire de l'église Notre-Dame de Paris* (Paris, 1850), i, 396.

[12] Denifle and Chatelain, i, 46.

[13] *Ibid.*, p. 45. The editors suggest (note 1) that this may have been the celebrated theologian, Simon of Tournai.

An examination of William's charters and of other sources proves that Stephen did not exceed the limits of truth.

Master Melior, a Pisan, was one of several Italians who, at one time or another, were in William's service.[14] Du Boulay's statement that he had been a teacher at Paris cannot be confirmed,[15] but the offices he held in the province of Rheims and later in the Roman Church would suggest that he was well acquainted with canon law.[16] We first find him in the service of Henry the Liberal of Champagne, in 1171–1172.[17] In 1174 [18] and 1176,[19] however, he attested charters of William. Moreover he was in the archbishop's retinue at Amiens in 1180, when Bishop Theobald of that city deeded certain revenues to the monastery of Saint-Martin-aux-Jumeaux.[20] In 1183 Lucius III elevated Melior to a cardinalcy.[21]

[14] Brial (*Hist. lit.*, xv, 314–316) showed that Melior was not a Frenchman, but a Pisan. His conclusion is confirmed by charters which he had not seen. In G. Saige and H. Lacaille, *Trésor des chartes du comté de Rethel* (Monaco, 1902–16), i, 17, Melior attests a deed of Manasses, count of Rethel, as "Magistro Meliore Pisano." In the confirmation of the same by William of the White Hands (*ibid.*, p. 18) the name appears as "Magistro *Milone* Pisano." This is apparently a scribal error.

[15] *Historia Universitatis Parisiensis* (1665), ii, 755.

[16] He appears as archdeacon of Laon in a letter of Stephen of Tournai (Migne, ccxi, 379) and in a charter of 1180 (Cartulary of Igny, B.N., MS. lat. 9904, fol. 60). In a charter of 1184 he appears as vidame of Rheims (G. Marlot, *Metropolis Remensis Historia* (Rheims, 1679), ii, 458). After he became cardinal, Melior was sent to France as papal legate in 1193. Three years later he presided over a council at Paris which was convened to deal with the case of Ingeborg of Denmark (*Hist. lit.*, xv, 318 ff.).

[17] Migne, cc, 799. I can see no reason, as does Brial (*op. cit.*, pp. 316 ff.), for identifying Melior with a Master M., mentioned by Peter of Celle in a letter ca. 1159 to Hugh, archbishop of Sens (Migne, ccii, 414).

[18] M. Quantin, *Cartulaire général de l'Yonne* (Auxerre, 1854–60), ii, 254.

[19] Saige and Lacaille, i, 18.

[20] This charter is in the unpublished cartulary of Saint-Martin-aux-Jumeaux now preserved under the number Hii4 at the Archives Départementales de la Somme at Amiens. Archbishop William and his followers appear on fol. 25:

"Huic autem nostre donationi affuerunt, Dominus et magister noster, Willelmus, Remensis archiepiscopus, sancte romane ecclesie, tituli, sancte sabine cardinalis, apostolice sedis legatus, et venerabilis frater noster, Ramaldus, Noviomensis episcopus. De sociis domini archiepiscopi, Alexander cancellarius, Ramaldus thesaurarius, magister petrus de blois, Magister Berteers, Magister mellor, Garnerius de triagnel, Rogerus capellanus, Radulfus socius eius, Johannes bituriensis, Johannes parisiensis. De clericis domini Noviomensis, magister ingelrannus, capellanus eius, Robertus presbyter socius eius, et drogo. De clericis vero nostris, Drogo capellanus, et magister guifridus, et magister samuel. Actum anno incarnati verbi MCLXXX. Datum per manum Roberti Cancellarii."

The charter seems to have been known to Marlot (*Hist. de la ville, cité et université de Reims*, iii, 457).

[21] Anonymous Continuator of Robert du Mont; *H.F.*, xviii, 336. He attested papal

Another Italian who was on terms of familiarity with William, if never actually in his service, was Master Lombard of Piacenza, the friend and companion in exile of Thomas à Becket. According to Herbert of Bosham, Lombard was the most learned of Becket's followers. During the dreary days of exile both Thomas and Herbert received instruction in canon law from him.[22] William of the White Hands, both as bishop of Chartres and as archbishop of Sens, was one of the stanchest supporters of the archbishop of Canterbury in his struggle with Henry II.[23] After November, 1166, the English prelate made his residence at Sainte-Colombe near Sens. It was this fact, no doubt, that brought William into intimate contact with the *eruditi* in his following. John of Salisbury, in a letter of January, 1169, informs us that Lombard is to be found in the *familia* of the archbishop of Sens.[24] Moreover, Lombard's name appears among the witnesses to one of William's charters of approximately the same time.[25] Later he became a cardinal and archbishop of Beneventum.[26]

Peter of Pavia, who became cardinal of Saint-Chrysogonus, was a man of learning as well as of practical ability.[27] Though there is no indication that he was ever a member of William's curia, it was due mainly to the latter's influence that he became

documents between 4 April and 11 November, 1185 (Jaffé-Loewenfeld, *Regesta Pontificum Romanorum* (Leipzig, 1885–88), ii, 431).

[22] Herbert of Bosham, *Vita Sancti Thomae*, tomus vii, "De Catalogo Eruditorum Thomae" in J. C. Robertson, *Materials for the History of Thomas Becket* (Rolls Series, 67), iii, 523 ff. On the biographies of Becket, see L. Halphen, "Les Biographes de Thomas Becket" in *Revue historique*, cii, 35 ff., and E. Walberg, *La vie de Saint Thomas le Martyr par Guernes de Pont-Sainte-Maxence* (*Skrifter Utgivna Av Kungl. Humanistiska Vetenskapssamfundet I Lund*, v, 1922), ch. I.

[23] Mathorez, p. 21; *Hist. lit.*, xv, 508.

[24] Robertson, vi, 497.

[25] Quantin, *Cart. gén.*, ii, 221.

[26] Herbert of Bosham; Robertson, iii, 524. Herbert's biography was written between 1184 and 1186 (Robertson, iii, p. xxii). Lombard's name does not appear among the names of the cardinals who attested documents of Alexander III or his successors (Cf. Jaffé-Loewenfeld, ii, 145 ff., 431 ff., 492 ff.). According to P. Gams (*Series Episcoporum* (Ratisbon, 1873), p. 672) he was archbishop of Beneventum from 1171 to ca. 1177.

[27] For an account of Peter of Pavia, see H. Delehaye, "Pierre de Pavie légat du pape Alexandre III en France," in *Revue des questions historiques*, xlix, 5–61, and "Le légat Pierre de Pavie, chanoine de Chartres" in the same periodical, li, 244–252. See also Clerval, *Les écoles de Chartres*, pp. 292 ff.

bishop of Meaux in 1171.[28] Nevertheless relations between the two men did not remain cordial. After Peter had become cardinal, he attempted to retain the revenues of Meaux. Against this William protested vigorously to Alexander III.[29]

The sojourn of Becket in France appears to have been the origin of William's intimacy with a number of learned men who were natives of the British Isles. Primarily, the bond that united them was a common sympathy for the cause of Becket, rather than a common appreciation of letters. Yet the two interests cannot be sharply distinguished. John of Salisbury, one of the most eminent scholars of the twelfth century as well as a devoted follower of the exiled primate, was, as his letters show, on terms of familiarity with William.[30] It was the latter's influence, moreover, that made him bishop of Chartres in 1176.[31] Nevertheless it is impossible to determine whether the relations between the two men were based on anything more than participation (upon the same side) in the controversy between Henry II and his archbishop of Canterbury.

Between William and Herbert of Bosham relations may be shown to have been more definitely intellectual. Not only did Herbert write letters to and for William; [32] he also dedicated to him, as archbishop of Sens, the revisions he had made of Peter Lombard's glosses on the Psalter and on the letters of St. Paul.[33] As the preface to the work on the Psalter has Becket not only a martyr but a saint,[34] it must have been written after February, 1173, the date of his canonization. The revision of the glosses

[28] Letters of Peter of Celle, Migne, ccii, 567.

[29] Letters of Alexander III, Migne, cc, 1033.

[30] Migne, cxcix, nos. cccv, cccvi, cccxii.

[31] See the letter of Peter of Celle lauding William for having brought about the election of John (Migne, ccii, no. cxvii); also a letter of Louis VII to John of Salisbury (*ibid.*, cxcix, no. cccxxiii).

[32] Letters of Herbert of Bosham; Migne, cxc, nos. v, vi, vii, xviii, xxxiii, xxxvii. For Herbert's biography, consult Robertson, iii, pp. xvii–xxviii, and Kate Norgate in *Dictionary of National Biography*.

[33] The prefaces to both works were published by Léopold Delisle from MSS. 150, 152, and 153 of Trinity College, Cambridge, in *Journal des savants*, 1900, pp. 732–738. Herbert's revision of the glosses on the Psalter was in two parts. The first only is at Trinity College. The second is at the Bodleian. The brief preface to it was published by Migne, cxc, 1475.

[34] *Journal des savants*, 1900, p. 732.

on St. Paul was apparently finished earlier. Herbert's tears for his master, the "neomartyr," [35] seem to be still fresh and we cannot be far wrong in concluding that the work was written in 1171 or 1172.

Another companion of Becket who attracted William's attention was the Welshman, Alexander Cuelin (Llewellyn?) or Wallensis. The sole indication of his intellectual attainments is his inclusion in Herbert of Bosham's catalogue of the *eruditi* who accompanied Thomas. Here he is described as "Edoctus quidem in litteris, jucundus in verbis et in verbis jucundus multus." [36] As the literature of the Becket controversy shows, Alexander played an important part in the events which culminated in the murder of the primate. He and Gunther of Winchester were dispatched by William of the White Hands as bearers of the tragic news to Alexander III.[37] After this he appears to have been definitely attached to our archbishop, whose charters he attested in 1174,[38] 1175,[39] and 1176.[40] Moreover, it seems probable that this Welshman was the Alexander, chancellor of the archbishop, whose name is found in William's charters as archbishop of Rheims from 1176 [41] to 1180.[42] He must have died or resigned soon after the last date, for in 1182 the office was held by Lambinus of Bruges.[43]

William's acquaintance with British men of letters was not confined to the followers of Becket. As a young man, probably ca. 1184, Gervase of Tillbury, author of the *Otia Imperialia*, was a member of his curia.[44] Though the celebrated Walter

[35] *Journal des savants*, 1900, p. 737.

[36] Robertson, iii, 528.

[37] *Ibid.*, vii, no. dccxxxv.

[38] J. Depoin, *Recueil de chartes et documents de Saint-Martin-des-Champs* (Paris, 1912–13), ii, 335; L. Merlet and A. Moutié, *Cartulaire de l'abbaye de Notre-Dame des Vaux de Cernay* (Paris, 1857), i, 61. In both of these he appears as canon of Sens.

[39] Quantin, *Cart. gén.*, ii, 270.

[40] Saige and Lacaille, *Trésor de chartes*, i, 18.

[41] Marlot, *Met. Rem. Hist.*, ii, 406. [42] *Ante*, note 20.

[43] Cartulary of Igny, B.N., MS. lat. 9904, fol. 21.

[44] See W. Hunt's article in *Dictionary of National Biography*. The evidence for Gervase's presence in William's retinue is a rather discreditable anecdote that he himself related to Ralph of Coggeshall: *Chronicon Anglicanum*, edited by J. Stevenson (London, 1875, Rolls Series), p. 122. The date is suggested by the mention of persecutions of the "publicani" or "paterins" in which William was very active. See Mathorez, p. 27.

Map was never in William's service, he was apparently well acquainted with him, for he narrates an anecdote which he had heard from the prelate.[45]

Our list of names from "both Gauls" is somewhat longer. In spite of the fact that five of Stephen of Tournai's letters are to him, Lambert, or Lambinus, of Bruges,[46] who took Alexander's place as William's chancellor until 1190, when he himself became bishop of Thérouanne,[47] is a very indistinct figure. More worthy of our attention is a Master Berter (Berterus) with whom Stephen also corresponded.[48] Though they are addressed to Berter as archdeacon of Cambrai, Stephen's letters prove that he was in close attendance upon William.[49] The charter of Theobald of Amiens already cited confirms this.[50]

Are we to identify this Master Berter with a Master Berter of Orleans who expressed his zeal for the Third Crusade in verses preserved for us by the chronicle known under the name of Benedict of Peterborough? [51] Scattered sources make it pos-

[45] *De Nugis Curialium* (edited by M. R. James, 1914, *Anecdota Oxoniensia*, xiv), p. 58.

[46] Migne, ccxi, nos. clxxxi, clxxxiv, ccxii [?], ccxxviii, cclxix.

[47] *Gallia Christiana*, x, 1551–52. There is little indication who William's chancellors were before 1176. Clerval calls attention to a William, "chancellor of the bishop" (presumably of Chartres) in a letter of 1166 (*Les écoles de Chartres*, p. 284). A decision rendered by William as archbishop of Sens in 1173 was witnessed by "Rogerio Senonensi canonico et nostro cancellario et Alano notario nostro": L. Brièle, *Archives de l'Hôtel-Dieu de Paris* (Paris, 1894), p. 4. This is very probably a scribal error. Another of William's charters, 1174–1175 (Depoin, *Rec. des char. et doc. de Saint-Martin-des-Champs*, ii, 335), is attested by "Radulfo et Rogerio capellanis nostris." The same pair of chaplains also appears in a charter of 1174 (Merlet et Moutié, *Cart. de l'ab. de Notre-Dame des Vaux de Cernay*, i, 61), and "Rogerus capellanus" was among William's followers at Amiens in 1180 (*ante*, note 20). Roger the chancellor of the decision of 1173 should probably be corrected to Roger the chaplain. Alexander was chancellor from 1176 to ca. 1180; Lambinus succeeded him until 1190. A charter of William, dated 1190, gives the name of Peter as chancellor (L. Chantereau-Lefebvre, *Traité des fiefs* (Paris, 1662), "Autres preuves," p. 10), but he is found in no other document. Between 1190 and 1195 William appears to have had no chancellor. See the charters in P. Varin, *Archives administratives de la ville de Reims* (Paris, 1839–48, *Documents inédits sur l'histoire de France*), i, part 1, nos. cclxxxix, ccxcii, ccxciv. In 1195 his chancellor was Matthew (R. Teulet, *Layettes du trésor des chartes* (Paris, 1863), i, 181). He was still chancellor in 1201, the year before William died (Varin, i, part 2, no. x).

[48] Migne, ccxi, nos. xcix, cxxiii, cxc, ccviii, ccxli.

[49] *Ibid.*, no. cxxiii (410), for example. Stephen begs Berter to intercede with William in a matter in which he himself does not dare to approach him.

[50] *Ante*, note 20.

[51] *Gesta Regis Henrici Secundi*, edited by W. Stubbs (London, 1867, Rolls Series), ii, 26–28. Roger of Hoveden copies the verses from Benedict, *Chronica*, edited by W. Stubbs (London, 1868–71, Rolls Series), part 2, pp. 330–332.

sible to establish several points in the poet's biography. In 1173 he was in the service of Henry, the Young King, by whom he was dispatched to Rome to oppose papal confirmation of the elder Henry's selections to vacancies in the English episcopacy. Alexander III was inclined to find fault because only two of the candidates had actually come to Rome. He asked especially why the bishop-elect of Ely, Geoffrey Ridel, was absent. Here Berter of Orleans interposed that he had a Scriptural excuse. To Alexander's query what it might be, Berter wittily quoted St. Luke, xiv. 20, "He has married a wife and therefore cannot come." In spite of this slur on the morals of the bishop-elect of Ely, Alexander confirmed the elections.[52] Berter of Orleans also appears in charters. One of indefinite date issued by Geoffrey, dean of Chartres, informs us that he was canon both of Chartres and of Sainte-Croix of Orleans.[53] In a charter of 1187–1188 Philip Augustus calls him "our clerk," [54] and he is mentioned again in a royal charter of 1189–1190.[55] Finally, an obituary of Saint-Benoît-sur-Loire mentions a Berter of Orleans whose anniversary was established between 1183 and 1210.[56]

The problem of identification is complicated by the fact that between 1194 and 1200 the abbot of Saint-Euverte of Orleans was also a Berter [57] with whom Stephen of Tournai corresponded.[58] It is improbable, however, that he was either the archdeacon of Cambrai who was in the service of William of the White Hands, or Berter of Orleans. According to Bernois, the historian of Saint-Euverte, the Berter who became abbot was

[52] Roger of Hoveden, *Chronica*, part 2, pp. 58–59. Benedict of Peterborough, *Gesta*, does not contain this anecdote, though it does tell how Richard, the elect of Canterbury, and Reginald, the elect of Bath, set out for Rome to secure confirmation of the elections (i, 69). No doubt Berter is the "Magister Bert." mentioned in a letter concerning this same affair. See *H.F.*, xvi, 648–649.

[53] J. Thillier and E. Jarry, *Cartulaire de Sainte-Croix d'Orléans* (Paris, 1906), pp. 149 ff.

[54] H. Delaborde, *Recueil des actes de Philippe Auguste* (Paris, 1916), i, 263 ff.

[55] *Ibid.*, pp. 312 ff.

[56] A. Vidier and L. Mirot, *Obituaires de la province de Sens*, iii, *Diocèses d'Orléans, d'Auxerre et de Nevers* (Paris, 1909), p. 143.

[57] Abbé Bernois, *Histoire de l'Abbaye royale de Saint-Euverte d'Orléans* (Orleans, 1918), p. 339.

[58] Migne, ccxi, nos. cciv and cclxxxi are addressed to "Berterum Abbatem S. Evurtii"; nos. cxci, cxcii, and cxciii to an abbot of Saint-Euverte, probably Berter.

already prior in 1182.[59] This being so, it is not likely that he was the archdeacon of Cambrai to whom three of Stephen of Tournai's letters were written after 1192.[60] Nor is it probable that this prior of Saint-Euverte was the Berter of Orleans who appears simply as "our clerk" in the royal charter of 1187–1188.

It is impossible to prove that Berter, archdeacon of Cambrai, and Berter of Orleans were one and the same. There is, however, considerable probability that they were. It is worthy of note that Berter of Orleans was canon of Chartres, of which William had been bishop. Moreover, the important place that William held in the government of Philip Augustus does not make it unlikely that a clerk of the archbishop might be called "our clerk" in a royal charter. Finally, the name Berter was by no means a common one, as a glance through the indices of the great collections of mediaeval sources will reveal. Yet admittedly the identification of the two men is not proved.

Walter of Châtillon was one of the most accomplished poets of the twelfth century.[61] His great epic in ten books, the *Alexandreid*, is dedicated to William as archbishop of Rheims.[62] Apparently the poem was completed ca. 1180.[63] In the thir-

[59] Bernois, p. 103–107. The references given by M. Bernois are rather confusing. He states that Berter was prior in 1182 under Abbot Roger and refers us to *Gallia Christiana*, viii, 522[1572?]–1573, but the charters published here do not confirm his statement. Presumably he was acquainted with the same charters in a more complete form than that given by the *Gallia Christiana*.

[60] Migne, ccxi, nos. cxc, ccviii, ccxli.

[61] There are several biographies of Walter. The most important are: A. G. Müldener, *De Vita Magistri Philippi Gualtheri ab Insulis dicti de Castellione* (Göttingen, 1844); R. Peiper, *Walther von Chatillon* (Breslau, 1869). The article by A. Dupuis, "Études sur quelques philosophes scolastiques lillois du XI[e] et XII[e] siècle" (in *Mémoires de la société impériale des sciences, de l'agriculture et des arts de Lille*, v, 280 ff.) is not without merit. The work of L. Bellanger, *De M. Gualthero ab Insulis dicto de Castellione* (Angers, 1877), is more literary than critical. On Walter's short poems, see B. Hauréau, "Notice sur un manuscrit de la reine Christine à la Bibliothèque du Vatican" in *Notices et extraits des MSS.*, xxix, 2, pp. 277 ff., and especially Karl Strecker, "Walter von Chatillon der Dichter der Lieder von St. Omer," in *Zeitschrift für deutsches Altertum und deutsche Litteratur*, Neue Folge, xlix, 197 ff.; also "Walter von Chatillon und seine Schule," *ibid.*, lii, 97 ff., and 161 ff. The poems of the Saint-Omer MS. are published by the same author, *Die Gedichte Walters von Chatillon* (Berlin, 1925).

[62] The best critical analysis of the *Alexandreid* is that of H. Christensen, *Das Alexanderlied Walthers von Chatillon* (Halle a. S., 1905). See also Carlo Giordano's study of the poem, *Alexandreis Poema di Gautier da Châtillon* (Naples, 1917). No. 30 of the Saint-Omer poems (Strecker, *Die Gedichte*, pp. 55–56) celebrates William's translation from Sens to Rheims.

[63] Christensen, pp. 9 ff.

teenth century the *Alexandreid* was a great favorite in the schools, even supplanting the classics themselves. This popularity accounts for the large number of well-glossed manuscripts of the work that have survived. The primary facts in the career of the author may be learned from these glosses. He was born near Lille. He studied under a Master Stephen, canon of Beauvais. He tarried a while at Châtillon where he wrote *cantilenas*. Then he went to study law at Bologna. Returning to France he won the favor of William of the White Hands who secured for him a prebend at Amiens. He died of leprosy.[64]

Considerable confusion has arisen from the presence at the court of Henry II of England, between 1166 and 1173, of a Master Walter of Lille, assistant to the chancellor, Geoffrey Ridel.[65] Still, none of the biographical notes in the manuscripts of the *Alexandreid* connect Walter of Châtillon with the English court. Moreover, it is difficult to see how a man who had such abhorrence for the murder of Becket could have found the proximity of Henry II congenial after 1170.[66] It is more probable that Walter of Châtillon was "Master Walter, clerk of the archbishop" mentioned by John of Salisbury in a letter of 1166.[67] Yet one should avoid the finality of Hauréau in concluding, "Il est constant que Gauthier de Châtillon vient s'établir dans la ville de Reims en l'année 1166 et ne quitta plus la France, où il mourut." [68]

Among the glosses in two manuscripts of the *Alexandreid* is an

[64] These biographies vary somewhat, though in general they agree. For variations, see Peiper, pp. 4 ff.

[65] L. Delisle, *Recueil des actes de Henri II, roi d'Angleterre et duc de Normandie* (Paris, 1909), introduction, pp. 98 ff. This Master Walter of Lille figures frequently in the correspondence of the Becket controversy. See Robertson, v, 385; vi, 8–11, 90–92, 125–126; vii, 272–273.

[66] Strecker, *Die Gedichte*, no. 16, pp. 27 ff. Walter may also have been author of the verses:

"rex qui perdit praesulem in proditione
re vera neronior est ipso Nerone."

See A. G. Müldener, *Die zehn Gedichte des Walthers on Lille* (Hanover, 1859), no. vii, p. 42. These ten poems are ascribed to Walter in B.N., MS. lat. 3245. Hauréau (*ante*, note 61) argued that he could not have been the author of all ten. For a recent critical discussion of these, see Strecker, "Walter von Chatillon und seine Schule," *loc. cit.* (note 61).

[67] Letter to Richard, archdeacon of Poitiers: Robertson, v, 348.

[68] *Loc. cit.*, p. 298.

anecdote in which both Walter of Châtillon and Master Berter figure as members of William's curia.[69] The two were bitter rivals. When William dispatched Berter to Rome to transact business with the curia, Walter was apprehensive lest his rival should secure favors from the pope. Accordingly he scribbled something on a piece of parchment, sealed it, and handed it to Berter with the understanding that the seal should be broken only in the papal presence. Berter apparently was a man of his word. When the parchment was unfolded, the following verses were revealed:

Roma caput rerum
Que tanto turbine clerum
Involvis miserum,
Contemptorem mulierum,
Suscipe Galterum.
Si fas est dicere verum,
Sepe subegit erum
Dum floret adhuc ad Homerum,
Nec tam tenerum,
Sed quem iam barba severum
Redidit, et veterum
Perfectio lu[o]nga dierum . . .

Thus Walter sought to call attention to himself. William, however, was much annoyed at his clerk's temerity and dismissed him from his following. It was to recapture his favor, states the anecdote, that the *Alexandreid* was undertaken.[70] Such an origin of the epic is improbable. Moreover, the rather crude and obscure verses hardly suggest Walter of Châtillon. Nevertheless the rivalry of Walter and Berter may have had a basis in

[69] B.N., MSS. lat. 8351 (dated 1284, fol. 98) and 8358 (14th century). In 8351 the anecdote appears in a biography of Walter written on the margins of the first folio. It is so worn as to be practically illegible. In 8358 it is found on fol. 91v., where it can be read with little difficulty. Walter's biographers seem to have overlooked the anecdote. Another connection between Walter and Berter may perhaps be found in no. vii of the ten poems mentioned in note 66. Here a Master Bertredus is named, which is possibly an error for Berterus. Strecker, "Walter von Chatillon und seine Schule," p. 162, assumes that Berterus is intended. In the only MS., besides the Paris one, which I have seen, Oxford, Bodleian, MS. Digby 168, fol. 222v., the name is Bernardus.

[70] The anecdote goes on to give an alternative account of the occasion which produced the *Alexandreid*. According to this, Matthew of Vendôme and Walter of Châtillon competed to see which could produce the better poem. The former wrote the *Tobias*, the latter the *Alexandreid*.

fact, especially if the latter was the Berter of Orleans who composed the crusading poem already mentioned.

The mediaeval poverty in distinctive personal names is a source of infinite confusion. A case in point is that of the two Peters of Blois. The more famous one was archdeacon of Bath and has left us a much disputed collection of letters.[71] The second is known for the most part from these same letters.[72] Both Peters were connected with Chartres and both appear to have made the acquaintance of William of the White Hands. It has been suggested that the first Peter traveled in William's company in 1169 from Rome to Bologna.[73] At any rate, one of his letters shows that he had been offered, through a Master Gerard, a place in William's curia and a prebend at Chartres.[74] The archbishop, however, was dissuaded from his promise by a certain G., much to the chagrin of Peter.[75]

Was it the first Peter or the second who dedicated a *Speculum Juris Canonici* to a patron designated simply as *Domino Remensi*?[76] Reimar concluded that the treatise was written in

[71] On Peter, archdeacon of Bath, consult C. L. Kingsford in *Dictionary of National Biography*, and J. A. Robinson, *Somerset Historical Essays* (London, 1921), ch. v. The most recent critical examination of Peter's letters is that of Cohn, "The Manuscript Evidence for the Letters of Peter of Blois," in *E.H.R.*, xli, 43 ff. I am aware of the dangers in using these letters until their reliability has been proved. It seems justifiable, however, to use as evidence those letters placed by Cohn in Peter's first redaction and even those in the second.

[72] Migne, ccvii, nos. lxxvi, lxxvii, and cxiv. The first two were written to him; the third is to John of Salisbury. Cohn (p. 51) puts lxxvii in the first redaction, lxxvi and cxiv in the second.

[73] Cohn, p. 60.

[74] Migne, ccvii, 380, no. cxxviii (first redaction). The date of the letter appears to have been ca. 1171 (Robinson, p. 109). Gussanville, in a note, identifies the Master Gerard mentioned with Gerard Puella. It is more probable that he was the Master Gerard, archdeacon of Troyes, whose name is found frequently in William's charters of this period. See, for example, Depoin, *Rec. de chart. et docs. de Saint-Martin-des-Champs*, ii, 335; Quantin, *Cart. gén.*, ii, 270. I have been unable to discover that Gerard Puella was ever in William's service.

[75] Migne, ccvii, no. lxxii (first redaction). Peter also mentions his disappointment in letter no. xxxiv, p. 111 (first redaction).

[76] The treatise was edited and published by T. A. Reimar, *Petri Blesensis Opusculum de Distinctionibus in Canonum Interpretationes Adhibendis sive, ut auctor voluit, Speculum Juris Canonici* (Berlin, 1837). The preface and selections from the body of the treatise had already been published by Lappenberg, "Über Petri Blesensis Opusculum de Origine Juris Canonici," in *Zeitschrift für geschichtliche Rechtswissenschaft*, vii, 207–230. For a discussion of the sources of the work see J. F. von Schulte, *Die Geschichte der Quellen und Literatur des canonischen Rechts* (Stuttgart, 1875), i, 207–208. Reimar

1180.[77] Though such preciseness seems unwarranted, there can be little doubt that the *Speculum* appeared between 1176 and 1202,[78] that is to say, while William was archbishop of Rheims. Accordingly the work was dedicated to him. It is hardly necessary to add that the interest in canon law and other sciences which the author attributes to his patron harmonizes perfectly with all we know of William. A charter already cited shows that there was a Peter of Blois in his retinue at Amiens in 1180.[79]

All things point to the second Peter rather than the first as author of this treatise on the canon law. In the first place, it is improbable that the archdeacon of Bath would have dedicated a work to a prelate who had so bitterly disappointed him. Nor do the traits of the writer as they stand revealed in the *Speculum* accord with his somewhat narrow and severe point of view.[80] Peter, archdeacon of Bath, moreover, though he does not hesitate to speak of his own writings, nowhere mentions such a one.[81] Finally, the author, who was writing at Chartres, refers to a *muneris injuncti sollicitudinem* [82] which may well have been the office conferred on the second Peter by John of Salisbury upon becoming bishop of Chartres.[83]

used but a single MS., that of the public library of Hamburg. Lappenberg (p. 208) mentions another, among the Harleian MSS. of the British Museum, but I have been unable to find any trace of it. Von Schulte (p. 207, note 1) calls attention to still another, at Bamberg. This appears in the *Katalog der Handschriften der Königlichen Bibliothek zu Bamberg*, ed. F. Leitschuh (Bamberg, 1895), i, 881. I regret that I have been unable to compare this MS. with the one used by Reimar.

[77] Introduction, p. xliii. Reimar held that "Domino Remensi" was Henry, William's predecessor, on the ground that a letter of Alexander III, dated 1180, is addressed to him. Either the letter is wrongly dated or the name Henry is a mistake, for that archbishop died in November, 1175.

[78] The absence of any reference to the compilation of Bernard of Pavia makes it highly improbable that the treatise was written much later than 1191. There are, however, references to the *Appendix to the Third Lateran Council*, a compilation that appeared between 1181 and 1185. See Von Schulte, "Beitrag zur Geschichte des canonischen Rechtes von Gratian bis auf Bernhard von Pavia; 2, Appendix Concilii Lateranensis," in *Sitzungsberichte der Kaiserlichen Akademie der Wissenschaften*, phil.-hist. Klasse, lxxii, 486–490.

[79] *Ante*, note 20.

[80] Reimar, introduction, pp. xlvi–xlix.

[81] See, for example, the "Invectiva in Depravatorem Operum Blesensis," Migne, ccvii, 1113 ff.

[82] Reimar, p. 1.

[83] Letter of Peter of Blois to John of Salisbury, Migne, ccvii, no. cxiv (second redaction).

It is indeed unfortunate that the second Peter of Blois is so slightly known. The descriptions left us by the archdeacon of Bath picture him as a man of note in the intellectual and cultural world.[84] The lack of appreciation for theology, so much deplored by the first Peter, makes him more attractive rather than less to this day and generation. There seems to be little reason for identifying him with the clerk who was in the following of Eleanor of Aquitaine.[85] The statement that he was chancellor of Chartres was disproved some time ago, though it has been repeated quite recently.[86] It is not improbable, however, that he is the Peter of Blois whose anniversary on 30 November appears in a necrology from Chartres.[87]

Another of William's clerks was a Master Garnerus, or Garnerius. By the archbishop's request the cathedral chapter made him scholastic of Rheims. At the same time he received an annual grant of two measures of grain from William's mills.[88] Later the amount was increased to five and a stall in the choir was reserved for Garnerus and the scholastics who should succeed him.[89] The last concession was sufficiently important to receive the confirmation of Philip Augustus in 1192 [90] and of Celestin III in 1196.[91] Though Garnerus' name appears in other charters, little of interest is to be learned of him. Possibly he was the grammarian, Garnerius, cited by Peter Cantor in the *Verbum Abbreviatum*.[92] Almost surely he was the "Mas-

[84] See, for example, Migne, ccvii, 232, no. lxxvi.

[85] Cohn, p. 59.

[86] Robinson, p. 111. It was disproved by B. Hauréau, "Des chanceliers de Chartres appelés Pierre," in *Comptes rendus de l'Académie des Inscriptions et Belles-Lettres*, third series, i, 440 ff.

[87] E. de Lépinois and L. Merlet, *Cartulaire de Notre-Dame de Chartres* (Chartres, 1865), iii, 215. It was probably this second Peter also who attested a charter of Theobald of Blois in 1181, *ibid.*, i, 207.

[88] Cartulary of the diocese of Rheims, B.N., MS. n.a. lat., 939, fol. 7, no. xvii, "Pro Magistro Scolarum." William calls attention to this in other charters of the same cartulary. See, for example, fol. 18 and fol. 33v.

[89] *Ibid.*, fol. 13v. This charter is published in *Gallia Christiana*, x, *Instrumenta*, p. 51, and elsewhere.

[90] Delaborde, *Rec. des actes de Phil. Aug.*, no. 427, p. 517.

[91] See *Neues Archiv*, vii, 119. The entire text of the charter is given by the cartulary of the diocese mentioned above, no. iv.

[92] Migne, ccv, 200.

ter G., scholastic of Rheims" to whom Gervase of Prémontré wrote in behalf of a Master Peter who was seeking permission to teach canon law at Rheims.[93] The day of Garnerus' death appears to have been 30 September.[94]

In all probability we should add the name of Master Arnold of Blois to our list of William's followers. At least he is found representing the archbishop in 1186 when Renaud of Rozoy restored certain lands he had taken from the priory of Château-Porcien.[95] He is also found acting as arbiter in a dispute between two abbeys,[96] and, from a cartulary of the diocese of Rheims, we learn that he was a holder of land in the village of Fraillicourt.[97] A necrology from Rheims gives his anniversary as 5 October.[98] Not improbably he was the Master Arnold of Blois to whom one of the letters of Peter of Blois was written.[99] Peter describes him as *jure civili praecipuus*.

William's relations with men of letters extended beyond his own curia. As archbishop of Sens he confirmed the rights and privileges of his "dear son" Stephen in the prevostship of Saint-Quiriace of Provins.[100] Stephen seems to have been the man who was chancellor of Henry the Liberal of Champagne from 1176 to 1179,[101] and the clerk with whom Helinand of Froidmont had a heated dispute as to the rival merits of St. Bernard and Gilbert de la Porrée.[102] Helinand informs us that he was "exercitatissimus in omni genere facetiarum utriusque linguae Latinae et Gallicae." He was a canon of Beauvais and was per-

[93] C. Hugo, *Sacrae Antiquitatis Monumenta* (Estival, 1725), i, 54 ff.

[94] See the obituaries in P. Varin, *Arch. leg. de Reims*, i, 2, pp. 95 and 120.

[95] G. Kurth, *Chartes de l'abbaye de Saint-Hubert-en-Ardenne* (Brussels, 1903, *Documents inédits pour servir à l'histoire de Belgique*), i, nos. cxix and cxx.

[96] *Ibid.*, no. cxxi.

[97] Cartulary of the diocese of Rheims, fols. 7–9v. These charters, all of 1181–1185, were published by Varin, *Arch. ad.*, i, nos. cclviii, cclix, cclx, and cclxiii.

[98] Varin, *Arch. leg.*, i, 2, pp. 95 and 120.

[99] Migne, ccvii, no. lxxi, p. 219 (first redaction). Clerval (p. 304) identifies Master Arnold of Blois with Arnold, nephew of Peter of Blois and abbot of Saint-Laumer. There appears to be no reason for this identification. Letters no. cxxxi and cxxxii are addressed definitely to Arnold, Peter's nephew; no. lxxi is addressed to "Charissimo *socio et amico* magistro Ernaldo Blesensi."

[100] Bibliothèque de la ville de Provins, MS. 85, charter no. 7.

[101] D'Arbois de Jubainville, iii, 133.

[102] Helinand of Froidmont, *Chronicle*, Migne, ccxii, 1038.

haps the Master Stephen who had been the teacher of Walter of Châtillon.[103] No doubt he is to be distinguished from a Master Stephen of Provins who attested a charter of William in 1174.[104]

William was in correspondence with men whose names hold more conspicuous places in the intellectual history of the twelfth century. Peter of Celle's letter congratulating him on having supported John of Salisbury's candidature to Chartres has already been mentioned.[105] Moreover, although William seems to have opposed the election of Peter Cantor as bishop of Tournai, he later (ca. 1196) wrote him a cordial letter pressing him to accept the vacant deanship of Rheims.[106] Nicholas of Clairvaux also appears to have been acquainted with the archbishop, for a letter of his is a promise to visit him soon at Rheims.[107]

The most convincing argument for William's devotion to learning remains the works that were dedicated to him. The Scriptural commentaries of Herbert of Bosham, the *Alexandreid* of Walter of Châtillon, and the *Speculum Juris Canonici* of the second Peter of Blois have already been noted. But there are others. Peter Comestor, because of his long connection with Troyes,[108] probably knew William personally. His *Scholastic*

[103] Helinand tells us that he was canon both of Beauvais and of Saint-Quiriace of Provins. A Master Stephen attested charters of Bartholomew of Beauvais from 1163 to 1167 (Cartulary of Beaupré, B.N., MS. lat. 9973, fols. 50 and 111). It may be his anniversary which is given as 21 July by a necrology of Beauvais: Le Comte de Marsy, "Obituaire et livre des distributions de l'église cathédrale de Beauvais," in *Mémoires de la société académique de l'Oise*, xii, 173. Some of the marginal biographies of Walter of Châtillon state that a Master Stephen, canon of Beauvais, was Walter's teacher (B.N., MS. lat. 8352, fol. 2v.; MS. lat. 8359, fol. 79v.). Helinand informs us that the Stephen with whom he argued had actually been present at the trial of Gilbert de la Porrée at Rheims in 1148. Possibly he was teaching there and it may be more than coincidence that a Master Walter appears in charters of the archbishop of Rheims at just this time.

[104] Merlet and Moutié, *Cart. de l'ab. de N.-D. des Vaux de Cernay*, i, 60–61. Was this the Stephen of Provins named by Gregory IX in 1231 as one of a commission to examine the works of Aristotle? The time separating the two dates makes it improbable. Moreover, Stephen of Provins seems to have been a very common name in this period. See C. H. Haskins, "Two Roman Formularies in Philadelphia," in *Miscellanea Francesco Ehrle* (Rome, 1924), iv, 282 ff.

[105] *Ante*, note 31.

[106] Migne, ccix, 828. See also William's letter to the chapter of Rheims on the same matter, *ibid.*, p. 827.

[107] Migne, cxcvi, 1652, no. lvii.

[108] A "Magister Petrus Comestor" attested a charter of Theobald, count of Champagne, as early as 1125 at Troyes (D'Arbois de Jubainville, iii, 423). A charter of 1145 shows Peter as dean of Troyes (C. Lalore, *Collection des principaux cartulaires du diocèse*

History, one of the most popular and influential works of the later Middle Ages, is dedicated to William as archbishop of Sens.[109] As the archbishop is not given the title legate which he received in 1169, and as Peter styles himself simply "priest of Troyes," [110] it is probable that the work was presented to William when he first became archbishop.

Another scholar to dedicate his work to William as archbishop of Sens was the celebrated theologian, Peter of Poitiers, a disciple of Peter Lombard. As the dedication of the *Sentences* gives no indication that William is legate,[111] this work too would appear to have been presented to him shortly after his elevation to Sens in 1168. Peter's dedication is a eulogy of William, but we do not know whether his efforts received their due reward.

A manuscript of the Bibliothèque Municipale of Rheims has preserved for us a poem of eighty-eight verses celebrating the elevation of William to the see of Rheims.[112] Though this poem is not definitely dedicated to William, there can be little doubt that its eulogies were intended for his ears. The date of writing could not have been long after William's accession to Rheims. He is still the "new sun" come to illumine the city.[113] Though reference seems to be made to the coronation of Philip Augustus,[114] which took place on 1 November, 1179, the use of the

de Troyes (Paris, 1875), i, 32). He was still dean in 1167 (*ibid.*, v, 29 ff.). The name "Comestor" or "Manducator" is usually explained as signifying that Peter "devoured" books. After reading a letter of Nicholas of Clairvaux to Peter (Migne, cxcvi, 1615) one can hardly avoid giving the name a more literal interpretation. Nicholas warns Peter especially against "ciborum multiplicitas."

[109] Migne, cxcviii, 1053 ff.

[110] Peter became chancellor of Paris in 1168: Denifle and Chatelain, i, 8, note 1.

[111] Migne, ccxi, 789 ff. For the dates between which Peter was chancellor of Paris, see Denifle and Chatelain, i, 61, note.

[112] See *Catalogue général des manuscrits des bibliothèques publiques de France*, vol. 39², MS. 1275, fols. 186 and 186v. The poem begins:

"Tange, Remis, citharam, festivos exprime cantus
Pastoremque novum carmine pasce novo."

It ends:

"Ingenii, laudum mergeret unda fluens."

[113] Verse 5, fol. 186:

"Sol novus illuxit tibi, primo sole remoto."

[114] Verses 37–38, fol. 186:

"Quod bene previdit racio divina, nepotem
Unguat ut in Regem presulis uncta manus."

present tense indicates that it is an event which is to happen in the future rather than one that has already occurred. Incidentally the poem gives us 1 January as the day of William's election to Rheims, a fact hitherto unknown.[115]

A late hand in the margin ascribes these verses to Hildebert,[116] but his authorship is, of course, out of the question. As a matter of fact the poet himself tells us that he was named Peter.[117] It is impossible to tell which of the multitudinous Peters this may have been. It does not seem improbable, however, that he was Peter of Riga.[118] There are no objections to his authorship from a chronological point of view, and the verses show a remarkable similarity to those Peter of Riga wrote to celebrate the triumphs of Samson Mauvoisin and to those found in his *Aurora*.[119] The argument is strengthened by the highly allegorical way in which the poet treats his subject.[120]

[115] Verses 29–34:

"Nec sine misterio iani lux prima, remensi
Primatu dignum iudicat esse patrem.
Que fuit octava post partum virginis, istum
In patrem patrie parturit alma dies.
Cum Jesus accepit nomen, Willermus honorem,
Dumque salus oritur, est remis orta salus."

[116] Fol. 186.

[117] Verses 77–80, fol. 186v.:

"Quid stilus indignus tam digni presulis actus
Pingere presumit, cumprime, Petre, stilum,
Ne calamus pauper nitidi sermonis avarus,
Carmine denigret candida facta viri."

[118] On Peter of Riga, consult *Hist. lit.*, xvii, 26–35 (A. Duval); xxx, 608 ff. (Hauréau).

[119] Compare, for example, the first verse as given above, note 112, with the first verse of the *Floridus Aspectus* (Migne, clxxi, 1388):

"Tange, manus, calamum, Samsonis pinge triumphos."

Compare also the selections from the *Aurora* (*ibid.*, p. 1387) with verses in the poem under consideration. For example, *Aurora*:

"Quid noto? militat hic imperat, ille quiescit,
Hic bonus, hic melior, optimus ille gradus."

Rheims MS. 1275, verses 11–12, fol. 186:

"Illic magnus erat, ibi maior, maximus istic,
Hic bonus, hic melior, optimus iste locus."

[120] For example, verses 47–54, fols. 86–86v.:

"Anulus et baculus, sandalia, pallia, mitra
Morum splendorem splendida quinque notant.
Anulus arridet tribus, in quo gemma choruscat,
Aurum prerutilat, forma rotunda placet.
Per gemmam pudor exprimitur, doctrina per aurum,

According to the index of the catalogue of manuscripts at the Bibliothèque Sainte-Geneviève, an alchemical treatise by a certain William of Sens is dedicated to William of the White Hands. This is clearly an error. While it is true that the treatise is dedicated to an archbishop of Rheims, his name is not given and the treatise itself indicates that the date was 1216.[121] William of the White Hands had long been in his grave.

A work more probably intended for William is the *Microcosmographia* of an author whose name was also William.[122] The preface and a table of contents only have been published.[123] The author dedicated his treatise to "Willelmo dei gratia remensi archiepiscopo et apostolice sedis legato." Unfortunately this is sufficiently vague to denote either William of the White Hands or William of Joinville, a later archbishop and legate.[124] Nor do the contents of the treatise help to identify either author or patron. In one place the writer cites the obstinacy of the heretics known as *publicani*, but he may have had in mind the persecutions of the late twelfth or of the early thirteenth century.[125] All things considered, however, the first archbishop rather than the second seems the more probable. The patron's

Perfectum signat forma rotuna virum.
Anulus ostendit quod presul nobilis aurum
Nolet, et a nullo querere dona venit."

[121] Bibl. Sainte-Geneviève, MS. 2263, "De physica auscultatione, libri, 6, 7, et 8." The date appears on fol. 53:

"Cette livre a fut accomplie à Rouen . . . 1216
et cognoiie por ledit M. Guillaume de Cens."

The same work is found in a 16th-century MS. of the École de Médecine at Montpellier, no. 300. Here it is attributed to William of Sens, chancellor of the University of Paris. There was no such chancellor in the 12th or 13th century.

[122] There seems to be but one MS. of the work, no. 1041 of the Stadtbibliothek of Trier. For a description of the MS. see *Beschreibendes Verzeichnis der Handschriften der Stadtbibliothek zu Trier* (Trier, 1911), pp. 125–126. My attention was called to the MS. by Professor C. H. Haskins. Thanks to the kindness of the librarian and of a Franciscan friar whose name I do not know, I was able to secure photographs of it when I was at Trier in 1925. My investigations of the sources of the work are by no means complete, and any conclusions that I may indicate at this time are entirely tentative.

[123] E. Martène and V. Durand, *Veterum Scriptorum Amplissima Collectio* (Paris, 1724–33), i, 946 ff.; Migne, ccix, 869–872.

[124] Archbishop of Rheims, 1219–1226, legate, 1221–1226. See *Gallia Christiana*, ix, 107–108.

[125] In a chapter on the involuntary movements of the soul, fol. 42: "Quod etiam accidit in publicanis, qui peiora eligentes in principio robusti et in fine obstinati inveniuntur."

appreciation of learning and letters, which the author finds so admirable a trait, is more characteristic of William of the White Hands than of William of Joinville. Arguments from silence are dangerous, but no record of intellectual interests on the part of the latter has reached us. In the sole manuscript of the work, moreover, one finds immediately before the *Microcosmographia*, and written in the same hand, an astronomical table for 1178.[126] If, then, the work was dedicated to William of the White Hands, as these circumstances seem to indicate, we may conclude with reasonable assurance that the date was between 1176, when he became archbishop, and 1179, when he became cardinal, a title not given him in the address clause of the dedication.

The name William was far too common in the twelfth century to be of any material assistance in discovering the identity of the author. He could not have been William of Saint-Thierry as Clerval assumed,[127] nor is there any good reason for accepting the William of Soissons suggested by the *Histoire littéraire de la France*.[128] The treatise itself affords hardly a clue to the problem. The only apparent subjective characteristic of the writer is a violent antipathy to the *medici* whom he persistently contrasts with the *physici*. The former make "totam fisicam" to depend upon the examination of urine and excreta, while the latter more truthfully realize that it consists in "the nature of all the celestial and earthly bodies and in the contemplation of all things above and below."[129] Elsewhere he contrasts *medici* to *physici* as *odiosophi* to *philosophi*.[130]

Possibly some of this is a reflection of other writers, but there is too much warmth in William's remarks to make us believe

[126] Cf. C. H. Haskins, *Studies in the History of Mediaeval Science* (Cambridge, 1927), pp. 91–92, note 56. Paleographically the MS. seems to belong to the late 12th or first half of the 13th century. It cannot be an autograph, because the mistakes are of a kind that no author would make. Words and sentences, left out of the body of the text, are supplied in the margins. Moreover on fol. 34v. there is a break in the middle of the page. What follows is irrelevant to the topic under discussion. A marginal note informs us, however, that what ought to follow will be found six pages hence. This surely suggests the work of a careless copyist.

[127] *Les écoles de Chartres*, p. 275. William of Saint-Thierry died before 1176.

[128] Vol ix, pp. 70, 191. William of Soissons was a pupil of John of Salisbury (*Metalogicus*, ii, 10). The "machine" to which John refers must have antedated the *Metalogicus* and cannot possibly be the *Microcosmographia*.

[129] Fols. 10v. and 11. [130] Fol. 23v.

that he was entirely disinterested. At the beginning of the thirteenth century western doctors were divided into two schools, one basing its conclusions on inspection of the urine, the other relying on astrology. The *medici* are clearly this first school, though the *physici* hardly seem to be the exponents of astrological medicine. However this may be, such a warm interest in doctors might justify an inference that the author himself was a doctor. If this is the case, it is indeed strange that he makes no use of the great authorities on medicine,[131] though it is rather the soul than the body with which he is dealing.

At first glance the treatise itself appears to be of extraordinary interest. The author seems to have a more general familiarity with the works of Aristotle than one would normally expect in a man writing between 1176 and 1179. It is true that he cites only the *Topics* by name,[132] but many of his statements reveal an acquaintance with materials which are not found in the *Organon*. In many places appear ideas and phrases which come unquestionably from the *Historia Animalium*, the *De Anima*, or the *De Caelo*. The whole latter part of the treatise is little more than a paraphrase of the introductory chapters of the third book of the *Nicomachean Ethics*. But let no one be deceived! Our author, like so many of his contemporaries, knows his Aristotle at second hand. The candid fact is that his *Microcosmographia* is a rather shameless plagiarism of the *De Natura Hominis* of Nemesius.[133]

Despite the fragmentary character of our information as to the relations of William of the White Hands with the scholars and men of letters considered above, certain definite conclusions seem to be warranted. Clearly William had little of the restless,

[131] Against his having been a doctor is also his statement concerning "appositiones quas tiriacas audio appellari" (fol. 9). It seems strange that a doctor should not have been acquainted with theriac, though possibly it was the name rather than the remedy itself that was strange to him.

[132] Fol. 22v.

[133] This work had been translated from Greek into Latin by Alfano, bishop of Salerno, in the 11th century. A second translation was made by Burgundio the Pisan who dedicated it to Emperor Frederick Barbarossa in 1155. There are several recent editions of the treatise, but I have had at my disposal only the old one of Migne, *Patrologia Graeca*, xl, 503 ff.

inquiring intellect which has endowed Henry II of England and the Emperor Frederick II with a peculiar significance. His tastes were orthodox; his range of interests narrow. It was predominantly representatives of theology or canon law who found places in his curia or dedicated works to him, such men as Stephen of Tournai, Melior of Pisa, Herbert of Bosham, Peter Comestor, and the second Peter of Blois. Perhaps the enigmatical William of the *Microcosmographia* may be classified as a representative of science, but his case is surely an exceptional one.

Yet the austerity connoted by William's bias for canon law and theology was somewhat counterbalanced by more liberal and cultural interests. As we should perhaps expect of a former bishop of Chartres, William was fond of Latin poetry. Otherwise his elevation to Rheims would not have been celebrated by the verses of Peter, nor could Walter of Châtillon have woven him so integrally into his epic. Poets and canon lawyers rubbed elbows in Archbishop William's curia and vied with theologians for his favors, which ordinarily seem to have taken the form of ecclesiastical preferment. Perhaps other prelates and princes were as liberal in their treatment of men of letters as he, and certainly many patrons excelled William in the variety of interest represented in their clientele. Yet few indeed have been associated with so goodly a number of distinguished scholars, or have had their names celebrated in the dedications of works which have proved so influential. Aside from official documents he has left us nothing of his own. Nevertheless he is justly assigned a position of significance in the intellectual history of his age.

JOHN R. WILLIAMS

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